

106TH CONGRESS  
1ST SESSION

# S. 248

To modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. HATCH (for himself, Mr. ASHCROFT, Mr. THURMOND, Mr. SESSIONS, Mr. KYL, and Mr. ABRAHAM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, 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; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Judicial Improvement Act of 1999”.

6       (b) TABLE OF CONTENTS.—The table of contents for  
7       this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Procedures for certain injunctions.
- Sec. 3. Limitations on remedial authority.
- Sec. 4. Interlocutory appeals of court orders relating to class actions.
- Sec. 5. Multiparty, multiforum jurisdiction of district courts.
- Sec. 6. Appeals of Merit Systems Protection Board.

Sec. 7. Extension of Judiciary Information Technology Fund.  
 Sec. 8. Authorization for voluntary services.  
 Sec. 9. Offsetting receipts.  
 Sec. 10. Sunset of civil justice expense and delay reduction plans.  
 Sec. 11. Creation of certifying officers in the judicial branch.  
 Sec. 12. Limitation on collateral relief.  
 Sec. 13. Laurie Show victim protection.  
 Sec. 14. Rule of construction relating to retroactive application of statutes.  
 Sec. 15. Appropriate remedies for prison conditions.  
 Sec. 16. Limitation on fees.  
 Sec. 17. Notice of malicious filings.  
 Sec. 18. Limitation on prisoner release orders.  
 Sec. 19. Repeal of section 140.  
 Sec. 20. Severability.

1 **SEC. 2. PROCEDURES FOR CERTAIN INJUNCTIONS.**

2 (a) REQUIREMENT OF 3-JUDGE COURT.—

3 (1) IN GENERAL.—No interlocutory or perma-  
 4 nent injunction restraining the enforcement, oper-  
 5 ation, or execution of a State law adopted by ref-  
 6 erendum or an Act of Congress shall be granted by  
 7 a United States district court or judge thereof upon  
 8 the ground that the State law conflicts with the  
 9 United States Constitution, Federal law, or a treaty  
 10 of the United States unless the application for the  
 11 injunction is heard and determined by a court of 3  
 12 judges in accordance with section 2284 of title 28,  
 13 United States Code.

14 (2) APPEALS.—Any appeal of a determination  
 15 on such application shall be to the Circuit Court of  
 16 Appeals.

17 (3) DESIGNATION OF JUDGES.—In any case to  
 18 which this section applies, the additional judges who  
 19 will serve on the 3-judge court shall be designated

1 under section 2284(b)(1) of title 28, United States  
 2 Code, as soon as practicable, and the court shall ex-  
 3 pedite the consideration of the application for an in-  
 4 junction.

5 (4) DENIAL OF REQUEST.—Nothing in this  
 6 subsection shall prevent a district court judge from  
 7 denying a request for interlocutory or permanent in-  
 8 junctive relief.

9 (b) TIME LIMITS ON INJUNCTIVE RELIEF.—

10 (1) TEMPORARY RESTRAINING ORDER.—Section  
 11 2284(b)(3) of title 28, United States Code, is  
 12 amended in the second sentence by inserting before  
 13 the period, the following: “, but in no event shall the  
 14 order remain in force for longer than 10 days”.

15 (2) INTERLOCUTORY INJUNCTION.—Any inter-  
 16 locutory injunction restraining the enforcement or  
 17 operation of a State law adopted by referendum or  
 18 an Act of Congress shall remain in force for not  
 19 longer than 60 days. The Federal courts shall lack  
 20 the authority to grant any additional interlocutory  
 21 relief after the expiration of an interlocutory injunc-  
 22 tion. Nothing in this paragraph shall limit the  
 23 court’s authority to issue a permanent injunction  
 24 after an interlocutory injunction has expired. If the

1       order granting the interlocutory injunction is ap-  
 2       pealed, the time limits of paragraph (4) apply.

3           (3) FILING OF APPEAL.—A notice of appeal  
 4       from an order granting an interlocutory injunction  
 5       restraining the enforcement or operation, of a State  
 6       law adopted by referendum or an Act of Congress  
 7       shall be filed not later than 14 days after the date  
 8       of the order. The Courts of Appeals lack jurisdiction  
 9       over an untimely appeal of such an order.

10          (4) CONSIDERATION OF APPEAL.—If an appeal  
 11       is filed from an order granting an interlocutory in-  
 12       junction restraining the enforcement or operation of  
 13       a State law adopted by referendum or an Act of  
 14       Congress, the Court of Appeals shall reconsider the  
 15       merits of granting interlocutory relief applying a de  
 16       novo standard of review. The Court of Appeals shall  
 17       dispose of the appeal as expeditiously as possible,  
 18       but in any event within 100 days after the issuance  
 19       of the original order granting interlocutory relief. If  
 20       the interlocutory order is upheld on appeal, the in-  
 21       terlocutory order shall remain in force no longer  
 22       than 60 days after the date of the appellate decision  
 23       or until replaced by a permanent injunction.

24          (c) DEFINITIONS.—In this section—

1           (1) the term “State” means each of the several  
2 States and the District of Columbia;

3           (2) the term “State law” means the constitu-  
4 tion of a State, or any statute, ordinance, rule, regu-  
5 lation, or other measure of a State that has the  
6 force of law, and any amendment thereto; and

7           (3) the term “referendum” means the submis-  
8 sion to popular vote of a measure passed upon or  
9 proposed by a legislative body or by popular initia-  
10 tive.

11       (d) EFFECTIVE DATE.—This section applies to any  
12 injunction that is issued on or after the date of the enact-  
13 ment of this Act.

14 **SEC. 3. LIMITATIONS ON REMEDIAL AUTHORITY.**

15       (a) TERMINATION OF PROSPECTIVE RELIEF.—

16           (1) IN GENERAL.—In any civil action in which  
17 prospective relief is issued which binds State or local  
18 officials or in any civil action in which the parties  
19 entered a consent judgment binding State or local  
20 officials, such relief shall be terminable upon the mo-  
21 tion of any party or intervener—

22                   (A) 5 years after the date the court grant-  
23 ed or approved the prospective relief;

1 (B) 2 years after the date the court has  
 2 entered an order denying termination of pro-  
 3 spective relief under this paragraph; or

4 (C) in the case of an order issued on or be-  
 5 fore the date of enactment of this Act, 2 years  
 6 after the date of enactment.

7 (2) LIMITATION.—Prospective relief shall not  
 8 terminate if the court makes written findings based  
 9 on the record that prospective relief—

10 (A) remains necessary to correct current  
 11 and ongoing violation of a Federal right;

12 (B) extends no further than necessary to  
 13 correct the violation of a Federal right; and

14 (C) is the least intrusive means available  
 15 to correct the violation of a Federal right.

16 (3) TERMINATION AND MODIFICATION AUTHOR-  
 17 ITY OTHERWISE UNAFFECTED.—Nothing in this sec-  
 18 tion shall prevent any party or intervener from seek-  
 19 ing modification or termination before relief is avail-  
 20 able under paragraph (1), to the extent that modi-  
 21 fication or termination would otherwise be legally  
 22 permissible, and nothing in this section shall prevent  
 23 the parties from agreeing to terminate or modify an  
 24 injunction before such relief is available under para-  
 25 graph (1).

1           (4) CONFORMITY WITH OTHER LAWS.—Nothing  
 2           in this section shall affect the rules governing pro-  
 3           spective relief in any civil action with respect to pris-  
 4           on conditions.

5           (5) PROCEDURE FOR MOTION TO TERMI-  
 6           NATE.—

7                   (A) IN GENERAL.—The court shall rule  
 8                   promptly on any motion to modify or terminate  
 9                   relief.

10                   (B) AUTOMATIC TERMINATION.—In the  
 11                   event a court does not rule on a motion to ter-  
 12                   minate filed under paragraph (1) within 60  
 13                   days, the order or consent judgment binding  
 14                   State or local officials will automatically termi-  
 15                   nate and be of no further legal force.

16           (b) SPECIAL MASTERS.—

17                   (1) IN GENERAL.—

18                           (A) APPOINTMENT.—In any civil action in  
 19                           a Federal court, the Federal court may appoint  
 20                           a special master who shall be disinterested and  
 21                           objective.

22                           (B) REMEDIAL PHASE.—The court shall  
 23                           appoint a special master under this subsection  
 24                           only during the remedial phase of the action  
 25                           and only upon a finding that the remedial

1 phase will be sufficiently complex to warrant  
2 the appointment.

3 (2) APPOINTMENT.—

4 (A) SUBMISSION OF LIST.—If the court de-  
5 termines that appointment of a special master  
6 is necessary, the court shall request that the de-  
7 fendant (or group of defendants) and the plain-  
8 tiff (or group of plaintiffs) each submit a list of  
9 not more than 5 persons to serve as a special  
10 master.

11 (B) REMOVAL.—Each party shall have the  
12 opportunity to remove up to 3 persons from the  
13 opposing party's list.

14 (C) SELECTION.—The court shall select  
15 the special master from the remaining names  
16 on the lists after the operation of subparagraph  
17 (B).

18 (3) COMPENSATION.—The compensation to be  
19 paid to a special master shall be based on an hourly  
20 rate not greater than the hourly rate established  
21 under section 3006A of title 18, United States Code,  
22 for payment of court-appointed counsel, and costs  
23 reasonably incurred by the special master. Such  
24 compensation and costs shall be paid with funds ap-  
25 propriated to the Judiciary.



1           (4) REGULAR REVIEW OF APPOINTMENT.—The  
 2           court shall review the appointment of the special  
 3           master every 6 months to determine whether the  
 4           services of the special master continued to be justi-  
 5           fied under the standards of paragraph (1).

6           (5) LIMITATIONS ON POWERS AND DUTIES.—A  
 7           special master appointed under this subsection—

8                   (A) shall not make any finding or commu-  
 9                   nication ex parte; and

10                   (B) may be removed by the judge at any  
 11                   time, but shall be relieved of the appointment  
 12                   upon termination of relief.

13           (c) JUDICIAL TAXATION PROHIBITED.—

14                   (1) IN GENERAL.—No Federal court shall have  
 15                   the authority to order a unit of Federal, State, or  
 16                   local government to increase taxes as part of a judi-  
 17                   cial remedy.

18                   (2) REMEDIAL AUTHORITY OTHERWISE UNAF-  
 19                   FECTED.—Nothing in paragraph (1) shall be con-  
 20                   strued to limit the authority of a Federal court to  
 21                   order a remedy that may lead a unit of local or  
 22                   State government to decide to increase taxes.

23           (d) STATE COURT REMEDIES UNAFFECTED.—Noth-  
 24           ing in this section shall limit the remedial authority of

1 State courts in any case, including cases raising issues of  
 2 Federal law.

3 **SEC. 4. INTERLOCUTORY APPEALS OF COURT ORDERS RE-**  
 4 **LATING TO CLASS ACTIONS.**

5 (a) INTERLOCUTORY APPEALS.—Section 1292(b) of  
 6 title 28, United States Code, is amended—

7 (1) by inserting “(1)” after “(b)”; and

8 (2) by adding at the end the following:

9 “(2) The court of appeals which would have jurisdic-  
 10 tion over a final order in an action may, in its discretion,  
 11 permit an appeal from an order of a district court granting  
 12 or denying class action certification made to it within 10  
 13 days after the entry of the order. An appeal under this  
 14 paragraph shall not stay proceedings in the district court  
 15 unless the district judge or the court of appeals or a judge  
 16 thereof shall so order.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
 18 subsection (a) applies to any action commenced on or after  
 19 the date of enactment of this Act.

20 **SEC. 5. MULTIPARTY, MULTIFORUM JURISDICTION OF DIS-**  
 21 **TRICT COURTS.**

22 (a) BASIS OF JURISDICTION.—

23 (1) IN GENERAL.—Chapter 85 of title 28,  
 24 United States Code, is amended by adding at the  
 25 end the following:

1 **“§ 1369. Multiparty, multiform jurisdiction**

2       “(a) The district courts shall have original jurisdic-  
3 tion of any civil action involving minimal diversity between  
4 adverse parties that arises from a single accident, where  
5 at least 25 natural persons have either died or incurred  
6 injury in the accident at a discrete location and, in the  
7 case of injury, the injury has resulted in damages which  
8 exceed \$50,000 per person, exclusive of interest and costs,  
9 if—

10           “(1) a defendant resides in a State and a sub-  
11 stantial part of the accident took place in another  
12 State or other location, regardless of whether that  
13 defendant is also a resident of the State where a  
14 substantial part of the accident took place;

15           “(2) any 2 defendants reside in different  
16 States, regardless of whether such defendants are  
17 also residents of the same State or States; or

18           “(3) substantial parts of the accident took place  
19 in different States.

20       “(b) For purposes of this section—

21           “(1) minimal diversity exists between adverse  
22 parties if any party is a citizen of a State and any  
23 adverse party is a citizen of another State, a citizen  
24 or subject of a foreign state, or a foreign state as  
25 defined in section 1603(a);

1           “(2) a corporation is deemed to be a citizen of  
2           any State, and a citizen or subject of any foreign  
3           state, in which it is incorporated or has its principal  
4           place of business, and is deemed to be a resident of  
5           any State in which it is incorporated or licensed to  
6           do business or is doing business;

7           “(3) the term ‘injury’ means—

8                   “(A) physical harm to a natural person;  
9                   and

10                   “(B) physical damage to or destruction of  
11                   tangible property, but only if physical harm de-  
12                   scribed in subparagraph (A) exists;

13           “(4) the term ‘accident’ means a sudden acci-  
14           dent, or a natural event culminating in an accident,  
15           that results in death or injury incurred at a discrete  
16           location by at least 25 natural persons; and

17           “(5) the term ‘State’ includes the District of  
18           Columbia, the Commonwealth of Puerto Rico, and  
19           any territory or possession of the United States.

20           “(c) In any action in a district court which is or could  
21           have been brought, in whole or in part, under this section,  
22           any person with a claim arising from the accident de-  
23           scribed in subsection (a) shall be permitted to intervene  
24           as a party plaintiff in the action, even if that person could

1 not have brought an action in a district court as an origi-  
 2 nal matter.

3 “(d) A district court in which an action under this  
 4 section is pending shall promptly notify the judicial panel  
 5 on multidistrict litigation of the pendency of the action.”.

6 (2) CONFORMING AMENDMENT.—The table of  
 7 sections at the beginning of chapter 85 of title 28,  
 8 United States Code, is amended by adding at the  
 9 end the following:

“1369. Multiparty, multiform jurisdiction.”.

10 (b) VENUE.—Section 1391 of title 28, United States  
 11 Code, is amended by adding at the end the following:

12 “(g) A civil action in which jurisdiction of the district  
 13 court is based upon section 1369 may be brought in any  
 14 district in which any defendant resides or in which a sub-  
 15 stantial part of the accident giving rise to the action took  
 16 place.”.

17 (c) MULTIDISTRICT LITIGATION.—Section 1407 of  
 18 title 28, United States Code, is amended by adding at the  
 19 end the following:

20 “(i)(1) In actions transferred under this section when  
 21 jurisdiction is or could have been based, in whole or in  
 22 part, on section 1369, the transferee district court may  
 23 retain actions so transferred for the determination of li-  
 24 ability and punitive damages notwithstanding any other  
 25 provision of this section. An action retained for the deter-

1 mination of liability shall be remanded to the district court  
2 from which the action was transferred, or to the State  
3 court from which the action was removed, for the deter-  
4 mination of damages, other than punitive damages, unless  
5 the court finds, for the convenience of parties and wit-  
6 nesses and in the interest of justice, that the action should  
7 be retained for the determination of damages.

8       “(2) Any remand under paragraph (1) shall not be  
9 effective until 60 days after the transferee court has  
10 issued an order determining liability and has certified its  
11 intention to remand some or all of the transferred actions  
12 for the determination of damages. An appeal with respect  
13 to the liability determination and the choice of law deter-  
14 mination of the transferee court may be taken during that  
15 60-day period to the court of appeals with appellate juris-  
16 diction over the transferee court. In the event a party files  
17 such an appeal, the remand shall not be effective until the  
18 appeal has been finally disposed of. Once the remand has  
19 become effective, the liability determination and the choice  
20 of law determination shall not be subject to further review  
21 by appeal or otherwise.

22       “(3) An appeal with respect to determination of puni-  
23 tive damages by the transferee court may be taken, during  
24 the 60-day period beginning on the date the order making

1 the determination is issued, to the court of appeals with  
2 jurisdiction over the transferee court.

3 “(4) Any decision under this subsection concerning  
4 remand for the determination of damages shall not be re-  
5 viewable by appeal or otherwise.

6 “(5) Nothing in this subsection shall restrict the au-  
7 thority of the transferee court to transfer or dismiss an  
8 action on the ground of inconvenient forum.”.

9 (d) REMOVAL OF ACTIONS.—Section 1441 of title 28,  
10 United States Code, is amended—

11 (1) in subsection (e) by striking “(e) The court  
12 to which such civil action is removed” and inserting  
13 “(f) The court to which a civil action is removed  
14 under this section”; and

15 (2) by inserting after subsection (d) the follow-  
16 ing:

17 “(e)(1)(A) Notwithstanding the provisions of sub-  
18 section (b), a defendant in a civil action in a State court  
19 may remove the action to the district court of the United  
20 States for the district and division embracing the place  
21 where the action is pending if—

22 “(i) the action could have been brought in a  
23 United States district court under section 1369; or

24 “(ii) the defendant is a party to an action  
25 which is or could have been brought, in whole or in

1 part, under section 1369 in a United States district  
2 court and arises from the same accident as the ac-  
3 tion in State court, even if the action to be removed  
4 could not have been brought in a district court as  
5 an original matter.

6 “(B) The removal of an action under this subsection  
7 shall be made in accordance with section 1446, except that  
8 a notice of removal may also be filed before trial of the  
9 action in State court within 30 days after the date on  
10 which the defendant first becomes a party to an action  
11 under section 1369 in a United States district court that  
12 arises from the same accident as the action in State court,  
13 or at a later time with leave of the district court.

14 “(2) Whenever an action is removed under this sub-  
15 section and the district court to which it is removed or  
16 transferred under section 1407(i) has made a liability de-  
17 termination requiring further proceedings as to damages,  
18 the district court shall remand the action to the State  
19 court from which it had been removed for the determina-  
20 tion of damages, unless the court finds that, for the con-  
21 venience of parties and witnesses and in the interest of  
22 justice, the action should be retained for the determination  
23 of damages.

24 “(3) Any remand under paragraph (2) shall not be  
25 effective until 60 days after the district court has issued



1 an order determining liability and has certified its inten-  
2 tion to remand the removed action for the determination  
3 of damages. An appeal with respect to the liability deter-  
4 mination and the choice of law determination of the dis-  
5 trict court may be taken during that 60-day period to the  
6 court of appeals with appellate jurisdiction over the dis-  
7 trict court. In the event a party files such an appeal, the  
8 remand shall not be effective until the final disposition of  
9 the appeal. Once the remand has become effective, the li-  
10 ability determination and the choice of law determination  
11 shall not be subject to further review by appeal or other-  
12 wise.

13 “(4) Any decision under this subsection concerning  
14 remand for the determination of damages shall not be re-  
15 viewable by appeal or otherwise.

16 “(5) An action removed under this subsection shall  
17 be deemed to be an action under section 1369 and an ac-  
18 tion in which jurisdiction is based on section 1368 of this  
19 title for purposes of this section and sections 1407, 1660,  
20 1697, and 1785.

21 “(6) Nothing in this subsection shall restrict the au-  
22 thority of the district court to transfer or dismiss an ac-  
23 tion on the ground of inconvenient forum.”.

24 (e) CHOICE OF LAW.—

1           (1) DETERMINATION BY THE COURT.—Chapter  
 2       111 of title 28, United States Code, is amended by  
 3       adding at the end the following:

4   **“§ 1660. Choice of law in multiparty, multiform ac-**  
 5               **tions**

6       “(a)(1) In an action which is or could have been  
 7       brought, in whole or in part, under section 1369, the dis-  
 8       trict court in which the action is brought or to which it  
 9       is removed shall determine the source of the applicable  
 10      substantive law, except that if an action is transferred to  
 11      another district court, the transferee court shall determine  
 12      the source of the applicable substantive law. In making  
 13      this determination, a district court shall not be bound by  
 14      the choice of law rules of any State, and the factors that  
 15      the court may consider in choosing the applicable law  
 16      include—

17           “(A) the place of the injury;

18           “(B) the place of the conduct causing the in-  
 19      jury;

20           “(C) the principal places of business or  
 21      domiciles of the parties;

22           “(D) the danger of creating unnecessary incen-  
 23      tives for forum shopping; and

24           “(E) whether the choice of law would be reason-  
 25      ably foreseeable to the parties.

1       “(2) The factors set forth in paragraph (1) (A)  
 2 through (E) shall be evaluated according to their relative  
 3 importance with respect to the particular action. If good  
 4 cause is shown in exceptional cases, including constitu-  
 5 tional reasons, the court may allow the law of more than  
 6 1 State to be applied with respect to a party, claim, or  
 7 other element of an action.

8       “(b) The district court making the determination  
 9 under subsection (a) shall enter an order designating the  
 10 single jurisdiction whose substantive law is to be applied  
 11 in all other actions under section 1369 arising from the  
 12 same accident as that giving rise to the action in which  
 13 the determination is made. The substantive law of the des-  
 14 ignated jurisdiction shall be applied to the parties and  
 15 claims in all such actions before the court, and to all other  
 16 elements of each action, except where Federal law applies  
 17 or the order specifically provides for the application of the  
 18 law of another jurisdiction with respect to a party, claim,  
 19 or other element of an action.

20       “(c) In an action remanded to another district court  
 21 or a State court under section 1407(i)(1) or 1441(e)(2),  
 22 the district court’s choice of law under subsection (b) shall  
 23 continue to apply.”.

24               (2) CONFORMING AMENDMENT.—The table of  
 25 sections at the beginning of chapter 111 of title 28,

1 United States Code, is amended by adding at the  
2 end the following:

“1660. Choice of law in multiparty, multiform actions.”.

3 (f) SERVICE OF PROCESS.—

4 (1) OTHER THAN SUBPOENAS.—

5 (A) IN GENERAL.—Chapter 113 of title  
6 28, United States Code, is amended by adding  
7 at the end the following:

8 **“§ 1697. Service in multiparty, multiform actions**

9 “When the jurisdiction of the district court is based  
10 in whole or in part upon section 1369, process, other than  
11 subpoenas, may be served at any place within the United  
12 States, or anywhere outside the United States if otherwise  
13 permitted by law.”.

14 (B) CONFORMING AMENDMENT.—The  
15 table of sections at the beginning of chapter  
16 113 of title 28, United States Code, is amended  
17 by adding at the end the following:

“1697. Service in multiparty, multiform actions.”.

18 (2) SERVICE OF SUBPOENAS.—

19 (A) IN GENERAL.—Chapter 117 of title  
20 28, United States Code, is amended by adding  
21 at the end the following:

22 **“§ 1785. Subpoenas in multiparty, multiform actions**

23 “When the jurisdiction of the district court is based  
24 in whole or in part upon section 1369 of this title, a sub-

1 poena for attendance at a hearing or trial may, if author-  
 2 ized by the court upon motion for good cause shown, and  
 3 upon such terms and conditions as the court may impose,  
 4 be served at any place within the United States, or any-  
 5 where outside the United States if otherwise permitted by  
 6 law.”.

7 (B) CONFORMING AMENDMENT.—The  
 8 table of sections at the beginning of chapter  
 9 117 of title 28, United States Code, is amended  
 10 by adding at the end the following:

“1785. Subpoenas in multiparty, multiforum actions.”.

11 (g) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to a civil action if the accident giv-  
 13 ing rise to the cause of action occurred on or after the  
 14 90th day after the date of the enactment of this Act.

15 **SEC. 6. APPEALS OF MERIT SYSTEMS PROTECTION BOARD.**

16 (a) INDIVIDUAL RIGHT OF ACTION APPEALS.—Sec-  
 17 tion 1214(a)(3) of title 5, United States Code, is amended  
 18 in the second sentence by inserting after “Special Coun-  
 19 sel” the following: “within 60 days after receiving notice  
 20 of the personnel action at issue”.

21 (b) EFFECTIVE DATE.—The amendment made by  
 22 subsection (a) shall take effect on the date of enactment  
 23 of this Act and shall apply to all cases in which the em-  
 24 ployee, former employee, or applicant initially seeks cor-  
 25 rective action from the Special Counsel after that date.

1 **SEC. 7. EXTENSION OF JUDICIARY INFORMATION TECH-**  
 2 **NOLOGY FUND.**

3 Section 612 of title 28, United States Code, is  
 4 amended—

5 (1) by striking “equipment” each place it ap-  
 6 pears and inserting “resources”;

7 (2) by striking subsection (f) and redesignating  
 8 subsequent subsections accordingly;

9 (3) in subsection (g), as so redesignated, by  
 10 striking paragraph (3); and

11 (4) in subsection (i), as so redesignated—

12 (A) by striking “Judiciary” each place it  
 13 appears and inserting “judiciary”;

14 (B) by striking “subparagraph (c)(1)(B)”  
 15 and inserting “subsection (c)(1)(B)”; and

16 (C) by striking “under (c)(1)(B)” and in-  
 17 serting “under subsection (c)(1)(B)”.

18 **SEC. 8. AUTHORIZATION FOR VOLUNTARY SERVICES.**

19 Section 677 of title 28, United States Code, is  
 20 amended by adding at the end the following:

21 “(c)(1) Notwithstanding section 1342 of title 31, the  
 22 Administrative Assistant, with the approval of the Chief  
 23 Justice, may accept voluntary personal services for the  
 24 purpose of providing tours of the Supreme Court building.

25 “(2) No person may volunteer personal services under  
 26 this subsection unless the person has first agreed, in writ-

1 ing, to waive any claim against the United States arising  
 2 out of or in connection with such services, other than a  
 3 claim under chapter 81 of title 5.

4 “(3) No person volunteering personal services under  
 5 this subsection shall be considered an employee of the  
 6 United States for any purpose other than for purposes  
 7 of—

8 “(A) chapter 81 of title 5; or

9 “(B) chapter 171 of this title.

10 “(4) In the administration of this subsection, the Ad-  
 11 ministrative Assistant shall ensure that the acceptance of  
 12 personal services shall not result in the reduction of pay  
 13 or displacement of any employee of the Supreme Court.”.

14 **SEC. 9. OFFSETTING RECEIPTS.**

15 For fiscal year 2000 and thereafter, any portion of  
 16 miscellaneous fees collected as prescribed by the Judicial  
 17 Conference of the United States pursuant to sections  
 18 1913, 1914(b), 1926(a), 1930(b), and 1932 of title 28,  
 19 United States Code, exceeding the amount of such fees  
 20 in effect on September 30, 1999, shall be deposited into  
 21 the special fund of the Treasury established under section  
 22 1931 of title 28, United States Code.

1 **SEC. 10. SUNSET OF CIVIL JUSTICE EXPENSE AND DELAY**  
 2 **REDUCTION PLANS.**

3 Section 103(b)(2)(A) of the Civil Justice Reform Act  
 4 of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C.  
 5 471 note), as amended by Public Law 105–53 (111 Stat.  
 6 1173), is amended by inserting “471,” after “sections”.

7 **SEC. 11. CREATION OF CERTIFYING OFFICERS IN THE JUDI-**  
 8 **CIAL BRANCH.**

9 (a) APPOINTMENT OF DISBURSING AND CERTIFYING  
 10 OFFICERS.—Chapter 41 of title 28, United States Code,  
 11 is amended by adding at the end the following:

12 **“§ 613. Disbursing and certifying officers**

13 “(a)(1) The Director may designate in writing offi-  
 14 cers and employees of the judicial branch of the Govern-  
 15 ment, including the courts as defined in section 610 other  
 16 than the Supreme Court, to be disbursing officers in such  
 17 numbers and locations as the Director considers nec-  
 18 essary.

19 “(2) Disbursing officers shall—

20 “(A) disburse moneys appropriated to the judi-  
 21 cial branch and other funds only in strict accordance  
 22 with payment requests certified by the Director or in  
 23 accordance with subsection (b);

24 “(B) examine payment requests as necessary to  
 25 ascertain whether such requests are in proper form,  
 26 certified, and approved; and



1           “(C) be held accountable for their actions as  
2       provided by law, except that such a disbursing offi-  
3       cer shall not be held accountable or responsible for  
4       any illegal, improper, or incorrect payment resulting  
5       from any false, inaccurate, or misleading certificate  
6       for which a certifying officer is responsible under  
7       subsection (b).

8           “(b)(1)(A) The Director may designate in writing of-  
9       ficers and employees of the judicial branch of the Govern-  
10      ment, including the courts as defined in section 610 other  
11      than the Supreme Court, to certify payment requests pay-  
12      able from appropriations and funds.

13          “(B) Certifying officers shall be responsible and ac-  
14      countable for—

15           “(i) the existence and correctness of the facts  
16      recited in the certificate or other request for pay-  
17      ment or its supporting papers;

18           “(ii) the legality of the proposed payment under  
19      the appropriation or fund involved; and

20           “(iii) the correctness of the computations of  
21      certified payment requests.

22          “(2) The liability of a certifying officer shall be en-  
23      forced in the same manner and to the same extent as pro-  
24      vided by law with respect to the enforcement of the liabil-  
25      ity of disbursing and other accountable officers. A certify-

1 ing officer shall be required to make restitution to the  
 2 United States for the amount of any illegal, improper, or  
 3 incorrect payment resulting from any false, inaccurate, or  
 4 misleading certificates made by the certifying officer, as  
 5 well as for any payment prohibited by law or which did  
 6 not represent a legal obligation under the appropriation  
 7 or fund involved.

8 “(c) A certifying or disbursing officer—

9 “(1) has the right to apply for and obtain a de-  
 10 cision by the Comptroller General on any question of  
 11 law involved in a payment request presented for cer-  
 12 tification; and

13 “(2) is entitled to relief from liability arising  
 14 under this section in accordance with title 31.

15 “(d) Nothing in this section affects the authority of  
 16 the courts with respect to moneys deposited with the  
 17 courts under chapter 129.”.

18 (b) CONFORMING AMENDMENT.—The table of sec-  
 19 tions for chapter 41 of title 28, United States Code, is  
 20 amended by adding at the end the following:

“613. Disbursing and certifying officers.”.

21 (c) DUTIES OF DIRECTOR.—Paragraph (8) of sub-  
 22 section (a) of section 604 of title 28, United States Code,  
 23 is amended to read as follows:

24 “(8) Disburse appropriations and other funds  
 25 for the maintenance and operation of the courts;”.

1 **SEC. 12. LIMITATION ON COLLATERAL RELIEF.**

2 (a) IN GENERAL.—No writ of habeas corpus or other  
 3 post-conviction remedy under section 2241, 2244, 2254,  
 4 or 2255 of title 28, United States Code, or any other pro-  
 5 vision of Federal law, shall lie to challenge the custody  
 6 or sentence of a person on the ground that the custody  
 7 or sentence of the person is the result in whole or in part  
 8 of the voluntarily given confession of the person.

9 (b) DETERMINATIONS REGARDING POST-CONVIC-  
 10 TION REMEDIES.—For purposes of subsection (a), in de-  
 11 termining whether any post-conviction remedy lies under  
 12 any provision of law described in subsection (a), as well  
 13 as in determining whether any such remedy should be  
 14 granted—

15 (1) the court shall apply the standards set forth  
 16 in section 3501(b) of title 18, United States Code;  
 17 and

18 (2) in applying the standards described in para-  
 19 graph (1) in any case seeking a post-conviction rem-  
 20 edy from a State court conviction, the court shall  
 21 apply the standards set forth in section 2254(d) of  
 22 title 28, United States Code.

23 (c) DEFINITION OF CONFESSION.—In this section,  
 24 the term “confession” has the same meaning as in section  
 25 3501(e) of title 18, United States Code.

1 (d) NO EFFECT ON OTHER LAW.—Nothing in this  
 2 section shall be construed to modify or otherwise affect  
 3 any requirement under Federal law relating to the obtain-  
 4 ing or granting of post-conviction relief.

5 **SEC. 13. LAURIE SHOW VICTIM PROTECTION.**

6 Section 2254 of title 28, United States Code, is  
 7 amended by adding at the end the following:

8 “(j) No Federal court shall specifically bar the retrial  
 9 in State court of a person filing the writ of habeas cor-  
 10 pus.”.

11 **SEC. 14. RULE OF CONSTRUCTION RELATING TO RETRO-**  
 12 **ACTIVE APPLICATION OF STATUTES.**

13 (a) IN GENERAL.—Chapter 1 of title 1, United  
 14 States Code, is amended by adding at the end the follow-  
 15 ing:

16 **“§ 8. Rules for determining the retroactive effect of**  
 17 **legislation**

18 “(a) Any Act of Congress enacted after the effective  
 19 date of this section shall be prospective in application only  
 20 unless a provision included in the Act expressly specifies  
 21 otherwise.

22 “(b) In applying this section, a court shall determine  
 23 the relevant retroactivity event in an Act of Congress (if  
 24 such event is not specified in such Act) for purposes of  
 25 determining if the Act—

1 “(1) is prospective in application only; or

2 “(2) affects conduct that occurred before the ef-  
3 fective date of the Act.”.

4 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—  
5 The table of sections for chapter 1 of title 1, United States  
6 Code, is amended by adding after the item relating to sec-  
7 tion 7 the following:

“8. Rules for determining retroactive effect of legislation.”.

8 **SEC. 15. APPROPRIATE REMEDIES FOR PRISON CONDI-**  
9 **TIONS.**

10 (a) **TRANSFER AND REDESIGNATION.**—Section 3626  
11 of title 18, United States Code, is—

12 (1) transferred to the Civil Rights of Institu-  
13 tionalized Persons Act (42 U.S.C. 1997 et seq.);

14 (2) redesignated as section 13 of that Act; and

15 (3) inserted after section 12 of that Act (42  
16 U.S.C. 1997j).

17 (b) **AMENDMENTS.**—Section 13 of the Civil Rights of  
18 Institutionalized Persons Act, as redesignated by sub-  
19 section (a) of this section, is amended—

20 (1) in subsection (b)(3), by adding at the end  
21 the following: “Noncompliance with an order for  
22 prospective relief by any party, including the party  
23 seeking termination of that order, shall not con-  
24 stitute grounds for refusal to terminate the prospec-  
25 tive relief, if the party’s noncompliance does not con-

1       stitute a current and ongoing violation of a Federal  
2       right.”;

3               (2) by redesignating subsections (e) through (g)  
4       as subsections (f) through (h), respectively;

5               (3) by inserting after subsection (d) the follow-  
6       ing:

7       “(e) PROCEDURE FOR ENTERING PROSPECTIVE RE-  
8       LIEF.—

9               “(1) IN GENERAL.—In any civil action with re-  
10       spect to prison conditions, a court entering an order  
11       for prospective relief shall enter written findings  
12       specifying—

13               “(A) the Federal right the court finds to  
14       have been violated;

15               “(B) the facts establishing that violation;

16               “(C) the particular plaintiff or plaintiffs  
17       who suffered actual injury caused by that viola-  
18       tion;

19               “(D) the actions of each defendant that  
20       warrant and require the entry of prospective re-  
21       lief against that defendant;

22               “(E) the reasons for which, in the absence  
23       of prospective relief, each defendant as to whom  
24       the relief is being entered will not take ade-

1           quate measures to correct the violation of the  
2           Federal right;

3                 “(F) the reasons for which no more nar-  
4                 rowly drawn or less intrusive prospective relief  
5                 would correct the current and ongoing violation  
6                 of the Federal right; and

7                 “(G) the estimated impact of the prospec-  
8                 tive relief on public safety and the operation of  
9                 any affected criminal justice system.

10               “(2) CONFLICT WITH STATE LAW.—If the pro-  
11               spective relief ordered in any civil action with respect  
12               to prison conditions requires or permits a govern-  
13               ment official to exceed his or her authority under  
14               State or local law or otherwise violates State law,  
15               the court shall, in addition to the findings required  
16               under paragraph (1), enter findings regarding the  
17               reasons for which—

18                         “(A) Federal law requires such relief to be  
19                         ordered in violation of State or local law;

20                         “(B) the specific relief is necessary to cor-  
21                         rect the violation of a Federal right; and

22                         “(C) no other relief will correct the viola-  
23                         tion of the Federal right.”;

24               (4) in subsection (f), as redesignated—

(A) in paragraph (3), in the first sentence, by inserting before the period at the end of the sentence the following: “, including that the case requires the determination of complex or novel questions of law, or that the court plans to order or has ordered a hearing under paragraph (5)(E) or discovery under paragraph (5)(F)”;

(B) by adding at the end the following:

“(5) TERMINATION OF PROSPECTIVE RELIEF.—

“(A) CONTENTS OF ANSWER TO MOTION TO TERMINATE.—

“(i) IN GENERAL.—In the answer to the motion to terminate prospective relief, the plaintiff may oppose termination in accordance with this subparagraph, on the ground that the prospective relief remains necessary to correct a current and ongoing violation of a Federal right.

“(ii) RELIEF ENTERED BEFORE ENACTMENT OF PRISON LITIGATION REFORM ACT.—If the prospective relief sought to be terminated was entered before the date of enactment of the Prison Litigation Reform



1 Act, the answer opposing termination  
2 under clause (i) shall allege—

3 “(I) the specific Federal right al-  
4 leged to be the object of a current vio-  
5 lation;

6 “(II) specific facts that, if true,  
7 would establish that current violation;

8 “(III) the particular plaintiff or  
9 plaintiffs who are currently suffering  
10 actual injury caused by that violation;

11 “(IV) the actions of each named  
12 defendant that constitute that viola-  
13 tion of the particular plaintiff’s or  
14 plaintiffs’ right;

15 “(V)(aa) the portion of the com-  
16 plaint or amended complaint filed  
17 prior to the original entry of the pro-  
18 spective relief sought to be retained  
19 that alleged the violation of that Fed-  
20 eral right;

21 “(bb) the portion of the court  
22 order originally ordering the prospec-  
23 tive relief that found the violation of  
24 that Federal right; or

1 “(cc) both the materials specified  
2 in items (aa) and (bb), if the violation  
3 of right was both alleged and estab-  
4 lished;

5 “(VI) the manner in which the  
6 current and ongoing violation can be  
7 remedied by maintaining the existing  
8 prospective relief; and

9 “(VII) the reasons for which, in  
10 the absence of prospective relief, each  
11 defendant as to whom the relief would  
12 be maintained would not take ade-  
13 quate measures to correct the viola-  
14 tion of the Federal right.

15 “(iii) RELIEF ENTERED AFTER EN-  
16 ACTMENT OF PRISON LITIGATION REFORM  
17 ACT.—If the prospective relief was entered  
18 after the date of enactment of the Prison  
19 Litigation Reform Act, the answer oppos-  
20 ing termination under clause (i) shall  
21 allege—

22 “(I) the specific Federal right al-  
23 leged to be the object of a current vio-  
24 lation;

1 “(II) specific facts that, if true,  
2 would establish that current violation;

3 “(III) the particular plaintiff or  
4 plaintiffs who are currently suffering  
5 actual injury caused by that violation;

6 “(IV) the current actions of each  
7 named defendant that constitute that  
8 violation of the particular plaintiff’s  
9 or plaintiffs’ right;

10 “(V) the findings required by  
11 subsection (e) made by the court at  
12 the time of the original entry of the  
13 prospective relief that established that  
14 the right had been violated and that  
15 the prospective relief was necessary to  
16 correct the violation;

17 “(VI) the manner in which the  
18 current and ongoing violation can be  
19 remedied by maintaining the existing  
20 prospective relief; and

21 “(VII) the reasons for which, in  
22 the absence of prospective relief, each  
23 defendant as to whom the relief would  
24 be maintained would not take ade-

1                   quate measures to correct the viola-  
2                   tion of the Federal right.

3                   “(iv) The answer shall be accom-  
4                   panied by affidavits, references to the  
5                   record, and any other materials on which  
6                   the plaintiff relies to support the allega-  
7                   tions required to be contained in the an-  
8                   swer under clause (ii) or (iii).

9                   “(B) CONTENTS OF RESPONSE TO AN-  
10                  SWER.—

11                  “(i) IN GENERAL.—If the defendant  
12                  disputes plaintiff’s factual allegations, de-  
13                  fendant shall file a response to the answer  
14                  setting forth the factual allegations the de-  
15                  fendant challenges.

16                  “(ii) ADDITIONAL REQUIREMENTS.—  
17                  In any case where the defendant seeks ter-  
18                  mination of the relief on the ground that  
19                  it is not narrowly tailored, overly intrusive,  
20                  or poses too great a burden on public safe-  
21                  ty or the operation of a criminal justice  
22                  system, or that it requires the defendant to  
23                  violate State or local law without meeting  
24                  the requirements of subsection (a)(1)(B)—

1 “(I) the defendant shall set forth  
 2 the factual basis for these claims in  
 3 its response; and

4 “(II) the defendant shall also set  
 5 forth alternative relief that would cor-  
 6 rect the violation of the Federal right  
 7 and that is more narrowly tailored,  
 8 less intrusive, less burdensome to pub-  
 9 lic safety or the operation of the af-  
 10 fected criminal justice system, or does  
 11 not require a violation of State or  
 12 local law.

13 “(iii) SUPPORTING DOCUMENTA-  
 14 TION.—The defendant’s response shall be  
 15 accompanied by affidavits, references to  
 16 the record, and any other materials on  
 17 which the defendant relies to support its  
 18 challenge to the plaintiff’s factual allega-  
 19 tions or the factual basis for its claims re-  
 20 garding the propriety or scope of the relief.

21 “(C) BURDEN OF PERSUASION.—The  
 22 plaintiff shall have the burden of persuasion  
 23 with respect to each point required to be con-  
 24 tained in the answer. The defendant shall have  
 25 the burden of persuasion with respect to wheth-

er the relief extends further than necessary to correct the violation of the Federal right, is not narrowly drawn nor the least intrusive means to correct the violation of the Federal right, excessively burdens public safety or the operation of a prison system, or requires the defendant to violate State or local law without meeting the requirements of subsection (a)(1)(B).

“(D) SUMMARY DETERMINATION.—The court shall grant the motion to terminate if the plaintiff’s answer fails to satisfy the requirements of subparagraph (A) or if the materials accompanying the plaintiff’s answer together with the materials accompanying the defendant’s response fail to carry the plaintiff’s burden of persuasion or fail to create a genuine issue of material fact regarding whether the relief should be maintained.

“(E) EVIDENTIARY HEARING.—If the court determines that there is a genuine issue of material fact that precludes it from making a summary determination concerning the motion on the basis of the materials filed by the parties, the court may conduct a limited evi-

1           dentiary hearing to resolve any disputed mate-  
2           rial facts identified by the court.

3           “(F) DISCOVERY.—If the court determines  
4           that the plaintiff’s answer meets the require-  
5           ments of paragraph (5)(A), that there are genu-  
6           ine issues of material fact that preclude it from  
7           making a summary determination concerning  
8           the motion based on the material filed by the  
9           parties, and that discovery would assist in re-  
10          solving these issues, the court may permit lim-  
11          ited, narrowly tailored, and expeditious discov-  
12          ery relating to the disputed material facts iden-  
13          tified by the court.

14          “(G) FINDINGS.—

15               “(i) IN GENERAL.—If the court denies  
16               the motion to terminate prospective relief,  
17               the court shall enter written findings  
18               specifying—

19                       “(I) the Federal right the court  
20                       finds to be currently violated;

21                       “(II) the facts establishing that  
22                       the violation is continuing to occur;

23                       “(III) the particular plaintiff or  
24                       plaintiffs who are currently suffering  
25                       actual injury caused by that violation;

1           “(IV) the actions of each defend-  
2           ant that warrant and require the con-  
3           tinuation of the prospective relief  
4           against that defendant;

5           “(V) the reasons for which, in  
6           the absence of continued prospective  
7           relief, each defendant as to whom the  
8           relief is continued will not take ade-  
9           quate measures to correct the viola-  
10          tion of the Federal right;

11          “(VI) the reasons for which no  
12          more narrowly drawn on less intrusive  
13          prospective relief would correct the  
14          current and ongoing violation of the  
15          Federal right;

16          “(VII) the impact of the prospec-  
17          tive relief on public safety and the op-  
18          eration of any affected criminal jus-  
19          tice system; and

20          “(VIII) if the prospective relief  
21          requires the defendant to violate State  
22          or local law, the reasons for which—

23               “(aa) Federal law requires  
24               the continuation of relief that  
25               violates State or local law;



1                   “(bb) the specific relief is  
2                   necessary to correct the violation  
3                   of a Federal right; and

4                   “(cc) no other relief will cor-  
5                   rect the violation of the Federal  
6                   right.

7                   “(ii) REQUIREMENTS FOR MOTIONS  
8                   ORDERED BEFORE ENACTMENT OF PRISON  
9                   LITIGATION REFORM ACT.—In the case of  
10                  a motion to terminate prospective relief en-  
11                  tered before the date of enactment of the  
12                  Prison Litigation Reform Act, in addition  
13                  to the requirements of clause (i), the  
14                  court’s written findings shall also specify—

15                  “(I)(aa) the portion of the com-  
16                  plaint or amended complaint that pre-  
17                  viously alleged that violation of Fed-  
18                  eral right;

19                  “(bb) the findings the court  
20                  made at the time it originally entered  
21                  the prospective relief concerning that  
22                  violation of Federal right; or

23                  “(cc) both the findings specified  
24                  in items (aa) and (bb), if the violation

1 was originally both alleged and estab-  
 2 lished; and

3 “(II) the prospective relief pre-  
 4 viously ordered to remedy that viola-  
 5 tion.

6 “(iii) REQUIREMENTS FOR MOTIONS  
 7 ORDERED AFTER ENACTMENT OF PRISON  
 8 LITIGATION REFORM ACT.—In the case of  
 9 a motion to terminate prospective relief  
 10 originally ordered after the date of enact-  
 11 ment of the Prison Litigation Reform Act,  
 12 in addition to the requirements of clause  
 13 (i), the court shall also enter written find-  
 14 ings specifying—

15 “(I) the findings required by sub-  
 16 section (e) made by the court at the  
 17 time the relief was originally entered  
 18 establishing that violation of Federal  
 19 right; and

20 “(II) the prospective relief pre-  
 21 viously ordered to remedy that viola-  
 22 tion.”;

23 (5) in subsection (g), as redesignated—

24 (A) by striking the subsection designation  
 25 and heading and inserting the following:

1 “(g) SPECIAL MASTERS FOR CIVIL ACTIONS WITH  
2 RESPECT TO PRISON CONDITIONS.—”;

3 (B) in paragraph (1)(B), by striking  
4 “under this subsection”;

5 (C) in paragraph (2)—

6 (i) in subparagraph (A), by striking  
7 “institution”; and

8 (ii) by adding at the end the follow-  
9 ing:

10 “(D) APPLICABILITY.—

11 “(i) IN GENERAL.—This paragraph shall  
12 not apply to any special master appointed be-  
13 fore the date of enactment of the Prison Litiga-  
14 tion Reform Act, unless their original appoint-  
15 ment expires on or after that date of enact-  
16 ment.

17 “(ii) SPECIAL MASTERS COVERED.—This  
18 paragraph applies to all special masters ap-  
19 pointed or reappointed after the date of enact-  
20 ment of the Prison Litigation Reform Act, re-  
21 gardless of the cause of the expiration of any  
22 initial appointment.”;

23 (D) in paragraph (3), by striking “under  
24 this subsection”;

25 (E) in paragraph (4)—

- 1 (i) by striking “under this section”;
- 2 (ii) by inserting “(A)” after “(4)”;
- 3 (iii) in subparagraph (A), as so des-  
4 ignated, by adding at the end the follow-  
5 ing: “In no event shall a court require a  
6 party to pay the compensation, expenses,  
7 or costs of the special master. Notwith-  
8 standing any other provision of law (in-  
9 cluding section 306 of the Act entitled ‘An  
10 Act making appropriations for the Depart-  
11 ments of Commerce, Justice, and State,  
12 the Judiciary, and related agencies for the  
13 fiscal year ending September 30, 1997,’  
14 contained in section 101(a) of title I of di-  
15 vision A of the Act entitled ‘An Act mak-  
16 ing omnibus consolidated appropriations  
17 for the fiscal year ending September 30,  
18 1997’ (110 Stat. 3009201)) and except as  
19 provided in subparagraph (B), the require-  
20 ment under the preceding sentence shall  
21 apply to the compensation and payment of  
22 expenses or costs of a special master for  
23 any action that is commenced before, on,  
24 or after the date of enactment of the Pris-  
25 on Litigation Reform Act.”; and

1 (iv) by adding at the end the follow-  
 2 ing:

3 “(B) The payment requirements under  
 4 subparagraph (A) shall not apply to the pay-  
 5 ment of a special master who was appointed be-  
 6 fore the date of enactment of the Prison Litiga-  
 7 tion Reform Act (110 Stat. 1321165 et seq.) of  
 8 compensation, expenses, or costs relating to ac-  
 9 tivities of the special master under this sub-  
 10 section that were carried out during the period  
 11 beginning on the date of enactment of the Pris-  
 12 on Litigation Reform Act and ending on the  
 13 date of enactment of this subparagraph.”;

14 (F) in paragraph (5), by striking from “In  
 15 any civil action” and all that follows through  
 16 “subsection, the” and inserting “The”; and

17 (G) in paragraph (6)—

18 (i) by striking “appointed under this  
 19 subsection”;

20 (ii) by striking subparagraph (A) and  
 21 inserting the following:

22 “(A) may be authorized by a court to con-  
 23 duct hearings on the record, and shall make  
 24 any findings based on the record as a whole.”;

- 1 (iii) in subparagraph (B), by striking
- 2 “communications;” and inserting “engage
- 3 in any communications ex parte; and”; and
- 4 (iv) by striking subparagraph (C) and
- 5 redesignating subparagraph (D) as sub-
- 6 paragraph (C); and
- 7 (6) in subsection (h), as redesignated—
- 8 (A) in paragraph (1), by striking “settle-
- 9 ments” and inserting “settlement agreements”;
- 10 (B) in paragraph (3)—
- 11 (i) by inserting “Federal, State, local,
- 12 or other” before “facility”;
- 13 (ii) by striking “violations” and in-
- 14 serting “a violation”;
- 15 (iii) by striking “terms and condi-
- 16 tions” and inserting “terms or conditions”;
- 17 and
- 18 (iv) by inserting “or other post-convic-
- 19 tion conditional or supervised release,”
- 20 after “probation,”;
- 21 (C) in paragraph (5), by striking “or local
- 22 facility” and inserting “local, or other facility”;
- 23 (D) in paragraph (8) by striking “inher-
- 24 ent”;

1 (E) in paragraph (9), by striking the pe-  
 2 riod at the end and inserting a semicolon;

3 (F) by adding at the end the following:

4 “(10) the term ‘violation of a Federal right’—

5 “(A) means a violation of a Federal con-  
 6 stitutional or Federal statutory right;

7 “(B) does not include a violation of a court  
 8 order that is not independently a violation of a  
 9 Federal statutory or Federal constitutional  
 10 right; and

11 “(C) shall not be interpreted to expand the  
 12 authority of any individual or class to enforce  
 13 the legal rights that individual or class may  
 14 have pursuant to existing law with regard to in-  
 15 stitutionalized persons, or to expand the author-  
 16 ity of the United States to enforce those rights  
 17 on behalf of any individual or class.”; and

18 (G) by redesignating paragraphs (8) and  
 19 (9) as paragraphs (9) and (8), respectively, and  
 20 inserting paragraph (9), as redesignated, after  
 21 paragraph (8), as redesignated.

22 (c) TECHNICAL AMENDMENT.—The table of sections  
 23 at the beginning of subchapter C of chapter 229 of title  
 24 18, United States Code, is amended by striking the item  
 25 relating to section 3626.

1 **SEC. 16. LIMITATION ON FEES.**

2 Section 7 of the Civil Rights of Institutionalized Per-  
3 sons Act (42 U.S.C. 1997e) is amended—

4 (1) in subsection (d)—

5 (A) by striking subparagraphs (A) and (B)  
6 and inserting the following:

7 “(A) the fee was directly and reasonably  
8 incurred in—

9 “(i) proving an actual violation of the  
10 plaintiff’s Federal rights that resulted in  
11 an order for relief;

12 “(ii) successfully obtaining contempt  
13 sanctions for a violation of previously or-  
14 dered prospective relief that meets the  
15 standards set forth in section 13, if the  
16 plaintiff made a good faith effort to resolve  
17 the matter without court action; or

18 “(iii) successfully obtaining court or-  
19 dered enforcement of previously ordered  
20 prospective relief that meets the standards  
21 set forth in section 13, if the enforcement  
22 order was necessary to prevent an immi-  
23 nent risk of serious bodily injury to the  
24 plaintiff and the plaintiff made a good  
25 faith attempt to resolve the matter without  
26 court action; and



1 “(B) the amount of the fee is proportion-  
 2 ately related to the court ordered relief for the  
 3 violation.”;

4 (B) in paragraph (2), by striking the last  
 5 sentence and inserting “If a monetary judgment  
 6 is the sole or principal relief awarded, the  
 7 award of attorney’s fees shall not exceed 100  
 8 percent of the judgment.”;

9 (C) in paragraph (3)—

10 (i) by striking “greater than 150 per-  
 11 cent” and inserting “greater than the less-  
 12 er of—

13 “(A) 100 percent”; and

14 (ii) by striking “counsel.” and insert-  
 15 ing “counsel; or

16 “(B) a rate of \$100 per hour.”; and

17 (D) in paragraph (4), by striking “pris-  
 18 oner” and inserting “plaintiff”;

19 (2) in subsection (e), by striking “Federal civil  
 20 action” and inserting “civil action arising under  
 21 Federal law” and by striking “prisoner confined in  
 22 a jail, prison, or other correctional facility” and in-  
 23 serting “prisoner who is or has been confined in any  
 24 prison”;

25 (3) in subsection (f)—

1 (A) in paragraph (1), by striking “action  
 2 brought with respect to prison conditions” and  
 3 inserting “civil action with respect to prison  
 4 conditions brought” and by striking “jail, pris-  
 5 on, or other correctional facility” and inserting  
 6 “prison”; and

7 (B) in paragraph (2), by striking “facility”  
 8 and inserting “prison”; and

9 (4) by striking subsections (g) and (h) and in-  
 10 serting the following:

11 “(g) WAIVER OF RESPONSE.—Any defendant may  
 12 waive the right to respond to any complaint in any civil  
 13 action arising under Federal law brought by a prisoner.  
 14 Notwithstanding any other law or rule of procedure, such  
 15 waiver shall not constitute an admission of the allegations  
 16 contained in the complaint or waive any affirmative de-  
 17 fense available to the defendant. No relief shall be granted  
 18 to the plaintiff unless a response has been filed. The court  
 19 may direct any defendant to file a response to the cog-  
 20 nizable claims identified by the court. The court shall  
 21 specify as to each named defendant the applicable cog-  
 22 nizable claims.

23 “(h) DEFINITIONS.—In this section, the terms ‘civil  
 24 action with respect to prison conditions’, ‘prison’, and

1 ‘prisoner’ have the meanings given the terms in section  
2 13(h).”.

3 **SEC. 17. NOTICE OF MALICIOUS FILINGS.**

4 (a) IN GENERAL.—Chapter 123 of title 28, United  
5 States Code, is amended—

6 (1) in section 1915A(c)—

7 (A) by striking “(c) DEFINITION.—As  
8 used in this section” and inserting the follow-  
9 ing:

10 **“§ 1915C. Definition**

11 “In sections 1915A and 1915B”;

12 (B) by inserting “Federal, State, local, or  
13 other” before “facility”;

14 (C) by striking “violations” and inserting  
15 “a violation”;

16 (D) by striking “terms and conditions”  
17 and inserting “terms or conditions”; and

18 (E) by inserting “or other post-conviction  
19 conditional or supervised release,” after “proba-  
20 tion,”; and

21 (2) by inserting after section 1915A the follow-  
22 ing:

1   **“§ 1915B. Notice to State authorities of finding of ma-**  
 2                   **licious filing by a prisoner**

3           “(a) FINDING.—In any civil action brought in Fed-  
 4   eral court by a prisoner (other than a prisoner confined  
 5   in a Federal correctional facility), the court may, on its  
 6   own motion or the motion of any adverse party, make a  
 7   finding whether—

8                   “(1) the claim was filed for a malicious pur-  
 9       pose;

10                  “(2) the claim was filed to harass the party  
 11       against which it was filed; or

12                  “(3) the claimant testified falsely or otherwise  
 13       knowingly presented false allegations, pleadings, evi-  
 14       dence, or information to the court.

15           “(b) TRANSMISSION OF FINDING.—The court shall  
 16   transmit to the State Department of Corrections or other  
 17   appropriate authority any affirmative finding under sub-  
 18   section (a). If the court makes such a finding, the Depart-  
 19   ment of Corrections or other appropriate authority may,  
 20   pursuant to State or local law—

21                  “(1) revoke such amount of good time credit or  
 22       the institutional equivalent accrued to the prisoner  
 23       as is deemed appropriate; or

24                  “(2) consider such finding in determining  
 25       whether the prisoner should be released from prison  
 26       under any other State or local program governing

1 the release of prisoners, including parole, probation,  
 2 other post-conviction or supervised release, or diver-  
 3 sionary program.”.

4 (b) TECHNICAL AMENDMENT.—The table of sections  
 5 at the beginning of chapter 123 of title 28, United States  
 6 Code, is amended by inserting after the item relating to  
 7 section 1915A the following:

“1915B. Notice to State authorities of finding of malicious filing by prisoner.  
 “1915C. Definition.”.

8 **SEC. 18. LIMITATION ON PRISONER RELEASE ORDERS.**

9 (a) IN GENERAL.—

10 (1) AMENDMENT TO TITLE 28.—Chapter 99 of  
 11 title 28, United States Code, is amended by adding  
 12 at the end the following:

13 **“§ 1632. Limitation on prisoner release orders**

14 “(a) IN GENERAL.—Notwithstanding section 13 of  
 15 the Civil Rights of Institutionalized Persons Act or any  
 16 other provision of law, in a civil action with respect to pris-  
 17 on conditions, no court of the United States or other court  
 18 defined under section 610 shall have jurisdiction to enter  
 19 or carry out any prisoner release order that would result  
 20 in the release from or nonadmission to a prison, on the  
 21 basis of prison conditions, of any person subject to incar-  
 22 ceration, detention, or admission to a facility because of—

23 “(1) a conviction of a felony under the laws of  
 24 the relevant jurisdiction; or

1           “(2) a violation of the terms or conditions of  
2           parole, probation, pretrial release, or a diversionary  
3           program, relating to the commission of a felony  
4           under the laws of the relevant jurisdiction.

5           “(b) DEFINITIONS.—In this section—

6           “(1) the terms ‘civil action with respect to pris-  
7           on conditions’, ‘prisoner’, ‘prisoner release order’,  
8           and ‘prison’ have the meanings given those terms in  
9           section 13(h) of the Civil Rights of Institutionalized  
10          Persons Act; and

11          “(2) the term ‘prison conditions’ means condi-  
12          tions of confinement or the effects of actions by gov-  
13          ernment officials on the lives of persons confined in  
14          prison.”.

15          (2) CONFORMING AMENDMENT.—The table of  
16          sections for chapter 99 of title 28, United States  
17          Code, is amended by adding at the end the follow-  
18          ing:

“1632. Limitation on prisoner release orders.”.

19          (b) AMENDMENT TO TITLE 18.—Section 3624(b) of  
20          title 18, United States Code, is amended—

21          (1) in paragraph (1), by striking the fifth sen-  
22          tence and inserting the following: “Credit that has  
23          not been earned may not later be granted, and credit  
24          that has been revoked pursuant to section 3624A  
25          may not later be reinstated.”; and

1           (2) in paragraph (2), by inserting before the pe-  
2       riod at the end the following: “, and may be revoked  
3       by the Bureau of Prisons for noncompliance with in-  
4       stitutional disciplinary regulations at any time be-  
5       fore vesting”.

6   **SEC. 19. REPEAL OF SECTION 140.**

7       Section 140 of the joint resolution entitled “A Joint  
8       Resolution making further continuing appropriations for  
9       the fiscal year 1982, and for other purposes”, approved  
10      December 15, 1981 (Public Law 97–92; 95 Stat. 1200;  
11      28 U.S.C. 461 note) is repealed.

12   **SEC. 20. SEVERABILITY.**

13      If any provision of this Act, an amendment made by  
14      this Act, or the application of such provision or amend-  
15      ment to any person or circumstance is held to be unconsti-  
16      tutional, the remainder of this Act, the amendments made  
17      by this Act, and the application of the provisions of such  
18      to any person or circumstance shall not be affected there-  
19      by.

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