

SENATE BILL NO. 419

March 9, 1999, Introduced by Senator VAN REGENMORTER and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9948) by adding chapter 55; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 55 PRISONER LITIGATION REFORM

2 SEC. 5501. (1) A PRISONER SHALL ONLY BRING A CIVIL ACTION
3 CONCERNING PRISON CONDITIONS UNDER THIS CHAPTER.

4 (2) AN ACTION DESCRIBED IN SUBSECTION (1) SHALL BE BROUGHT
5 IN THE CIRCUIT COURT OR THE COURT OF CLAIMS, AS APPROPRIATE.

6 SEC. 5503. (1) A PRISONER SHALL NOT FILE AN ACTION UNDER
7 THIS CHAPTER UNTIL THE PRISONER HAS EXHAUSTED ALL AVAILABLE
8 ADMINISTRATIVE REMEDIES.

9 (2) THE COURT SHALL ON ITS OWN MOTION OR ON THE MOTION OF A
10 PARTY DISMISS AN ACTION BROUGHT UNDER THIS CHAPTER BY A PRISONER

1 AS TO 1 OR MORE DEFENDANTS IF THE COURT IS SATISFIED THAT THE
2 ACTION IS NONMERITORIOUS OR SEEKS MONETARY RELIEF FROM A
3 DEFENDANT WHO IS IMMUNE FROM THE REQUESTED RELIEF.

4 (3) THE COURT SHALL NOT APPOINT COUNSEL PAID FOR IN WHOLE OR
5 IN PART AT TAXPAYER EXPENSE TO A PRISONER FOR THE PURPOSE OF
6 FILING A CIVIL ACTION UNDER THIS CHAPTER.

7 SEC. 5505. (1) IF A PRISONER SUBMITS FOR FILING A CIVIL
8 ACTION AS PLAINTIFF IN A COURT OF THIS STATE OR SUBMITS FOR
9 FILING AN APPEAL IN A CIVIL ACTION IN A COURT OF THIS STATE AND
10 STATES THAT HE OR SHE IS INDIGENT AND THEREFORE IS UNABLE TO PAY
11 THE FILING FEE AND COSTS REQUIRED BY LAW, THE PRISONER MAKING THE
12 CLAIM OF INDIGENCY SHALL SUBMIT TO THE COURT A CERTIFIED COPY OF
13 HIS OR HER INSTITUTIONAL ACCOUNT, SHOWING THE CURRENT BALANCE IN
14 THE ACCOUNT AND A 12-MONTH HISTORY OF DEPOSITS AND WITHDRAWALS
15 FOR THE ACCOUNT. THE COURT THEN SHALL ORDER THE PRISONER TO PAY
16 FEES AND COSTS AS PROVIDED IN THIS SECTION. THE COURT SHALL SUS-
17 PEND THE FILING OF THE CIVIL ACTION OR APPEAL UNTIL THE FILING
18 FEE OR INITIAL PARTIAL FILING FEE ORDERED UNDER SUBSECTION (2) OR
19 (3) IS RECEIVED BY THE COURT. IF THE COURT ORDERS THAT A PRIS-
20 ONER PAY A FILING FEE OR PARTIAL FILING FEE, ALL DOCUMENTS SUB-
21 MITTED BY THE PRISONER THAT RELATE TO THAT ACTION OR APPEAL SHALL
22 BE RETURNED TO THE PRISONER BY THE COURT ALONG WITH 2 CERTIFIED
23 COPIES OF THE COURT ORDER. AN ADDITIONAL CERTIFIED COPY OF THE
24 COURT ORDER SHALL BE SENT TO THE PRISON WHERE THE PRISONER IS
25 HOUSED. THE PRISONER THEN SHALL, WITHIN 21 DAYS AFTER THE DATE
26 OF THE COURT ORDER, RESUBMIT TO THE COURT ALL DOCUMENTS RELATING
27 TO THE ACTION OR APPEAL, ACCOMPANIED BY THE REQUIRED FILING FEE

1 OR PARTIAL FILING FEE AND 1 CERTIFIED COPY OF THE COURT ORDER.
2 IF THE FILING FEE OR INITIAL PARTIAL FILING FEE IS NOT RECEIVED
3 WITHIN 21 DAYS AFTER THE DAY ON WHICH IT WAS ORDERED, THE COURT
4 SHALL NOT FILE THAT ACTION OR APPEAL, AND SHALL RETURN TO THE
5 PRISONER ALL DOCUMENTS SUBMITTED BY THE PLAINTIFF THAT RELATE TO
6 THAT ACTION OR APPEAL.

7 (2) IF, UPON COMMENCEMENT OF THE CIVIL ACTION OR THE FILING
8 OF THE APPEAL, THE BALANCE IN THE PRISONER'S INSTITUTIONAL
9 ACCOUNT EQUALS OR EXCEEDS THE FULL AMOUNT OF THE FILING FEE
10 REQUIRED BY LAW, THE COURT SHALL ORDER THE PRISONER TO PAY THAT
11 AMOUNT.

12 (3) IF, UPON COMMENCEMENT OF THE CIVIL ACTION OR THE FILING
13 OF THE APPEAL, THE BALANCE IN THE PRISONER'S INSTITUTIONAL
14 ACCOUNT IS LESS THAN THE FULL AMOUNT OF THE FILING FEE REQUIRED
15 BY LAW, THE COURT SHALL REQUIRE THE PRISONER TO PAY AN INITIAL
16 PARTIAL FILING FEE IN AN AMOUNT EQUAL TO 50% OF THE GREATER OF
17 THE FOLLOWING:

18 (A) THE AVERAGE MONTHLY DEPOSITS TO THE PRISONER'S INSTITU-
19 TIONAL ACCOUNT FOR THE 12 MONTHS PRECEDING THE DATE ON WHICH THE
20 CIVIL ACTION IS COMMENCED OR THE APPEAL IS FILED.

21 (B) THE AVERAGE MONTHLY BALANCE IN THE PRISONER'S INSTITU-
22 TIONAL ACCOUNT FOR THE 12 MONTHS PRECEDING THE DATE ON WHICH THE
23 CIVIL ACTION IS COMMENCED OR THE APPEAL IS FILED.

24 (4) IN DETERMINING THE BALANCE IN A PRISONER'S INSTITUTIONAL
25 ACCOUNT FOR PURPOSES OF SUBSECTION (2) OR (3), THE COURT SHALL
26 DISREGARD AMOUNTS IN THE INSTITUTIONAL ACCOUNT THAT ARE REQUIRED

1 BY LAW OR BY ANOTHER COURT ORDER TO BE PAID FOR ANY OTHER
2 PURPOSES.

3 (5) IN ADDITION TO AN INITIAL PARTIAL FILING FEE UNDER SUB-
4 SECTION (3), THE COURT SHALL ORDER THE PRISONER TO MAKE MONTHLY
5 PAYMENTS IN AN AMOUNT EQUAL TO 50% OF THE DEPOSITS MADE TO THE
6 ACCOUNT. PAYMENTS UNDER THIS SUBSECTION SHALL CONTINUE UNTIL THE
7 FULL AMOUNT OF THE FILING FEE IS PAID. IF COSTS ARE ASSESSED
8 AGAINST A PRISONER, AND IF THE BALANCE OF THE PRISONER'S INSTITU-
9 TIONAL ACCOUNT IS NOT SUFFICIENT TO PAY THE FULL AMOUNT OF THE
10 COSTS ASSESSED, THE COURT SHALL ORDER THE PRISONER TO MAKE PAY-
11 MENTS IN THE SAME MANNER REQUIRED IN THIS SECTION FOR THE PAYMENT
12 OF FILING FEES, AND THE FULL AMOUNT OF THE COSTS SHALL BE COL-
13 LECTED AND PAID IN THE MANNER PROVIDED IN THIS SECTION.

14 (6) IF A PRISONER IS ORDERED BY A COURT TO MAKE MONTHLY PAY-
15 MENTS FOR THE PURPOSE OF PAYING THE BALANCE OF FILING FEES OR
16 COSTS UNDER THIS SECTION, THE AGENCY HAVING CUSTODY OF THE PRIS-
17 ONER SHALL REMOVE THOSE AMOUNTS FROM THE INSTITUTIONAL ACCOUNT OF
18 THE PRISONER SUBJECT TO THE ORDER AND, WHEN AN AMOUNT EQUAL TO
19 THE BALANCE OF THE FILING FEES OR COSTS DUE IS REMOVED, REMIT
20 THAT AMOUNT AS DIRECTED IN THE ORDER.

21 (7) THE TOTAL AMOUNT COLLECTED FROM A PRISONER UNDER SUBSEC-
22 TIONS (3) TO (5) SHALL NOT EXCEED THE FULL AMOUNT OF THE FILING
23 FEE AND COSTS REQUIRED BY LAW.

24 (8) FOR PURPOSES OF THIS SECTION, THE FACT OF A PRISONER'S
25 INCARCERATION CANNOT BE THE SOLE BASIS FOR A DETERMINATION OF
26 INDIGENCY. HOWEVER, THIS SECTION SHALL NOT PROHIBIT A PRISONER
27 FROM COMMENCING A CIVIL ACTION OR FILING AN APPEAL IN A CIVIL

1 ACTION IF THE PRISONER HAS NO ASSETS AND NO MEANS BY WHICH TO PAY
2 THE INITIAL PARTIAL FILING FEE. IF THE COURT, PURSUANT TO COURT
3 RULE, WAIVES OR SUSPENDS THE PAYMENT OF FEES AND COSTS IN AN
4 ACTION DESCRIBED IN SUBSECTION (1) BECAUSE THE PRISONER HAS NO
5 ASSETS AND NO MEANS BY WHICH TO PAY THE INITIAL PARTIAL FILING
6 FEE, THE COURT SHALL ORDER THE FEES AND COSTS TO BE PAID BY THE
7 PRISONER IN THE MANNER PROVIDED IN THIS SECTION WHEN THE REASON
8 FOR THE WAIVER OR SUSPENSION NO LONGER EXISTS.

9 (9) A PRISONER WHO HAS FAILED TO PAY OUTSTANDING FEES AND
10 COSTS AS REQUIRED UNDER THIS SECTION SHALL NOT COMMENCE A NEW
11 CIVIL ACTION OR APPEAL UNTIL THE OUTSTANDING FEES AND COSTS HAVE
12 BEEN PAID.

13 (10) THE COURT SHALL DISMISS A CASE AT ANY TIME, REGARDLESS
14 OF ANY FILING FEE THAT MAY HAVE BEEN PAID, IF THE COURT FINDS ANY
15 OF THE FOLLOWING:

16 (A) A PRISONER'S ALLEGATION OF INDIGENCY IS UNTRUE.

17 (B) THE ACTION OR APPEAL IS NONMERITORIOUS.

18 (C) THE ACTION OR APPEAL SEEKS MONETARY RELIEF AGAINST A
19 DEFENDANT WHO IS IMMUNE FROM THE REQUESTED RELIEF.

20 (D) A PRISONER FAILS TO COMPLY WITH SUBSECTION (9).

21 SEC. 5507. (1) A PRISONER SHALL NOT BRING A CIVIL ACTION OR
22 APPEAL A JUDGMENT IN A CIVIL ACTION CONCERNING PRISON CONDITIONS
23 UNDER THIS CHAPTER IF THE PRISONER HAS, ON 2 OR MORE PRIOR OCCA-
24 SIONS, WHILE INCARCERATED OR DETAINED IN ANY PRISON, BROUGHT AN
25 ACTION OR APPEAL IN A COURT OF THIS STATE THAT WAS DISMISSED ON
26 THE GROUNDS THAT IT WAS NONMERITORIOUS, UNLESS THE PRISONER IS
27 UNDER IMMINENT DANGER OF SERIOUS PHYSICAL INJURY OR OF CONDUCT

1 PROHIBITED UNDER SECTION 520B, 520C, OR 520D OF THE MICHIGAN
2 PENAL CODE, 1931 PA 328, MCL 750.520B, 750.520C, AND 750.520D.

3 (2) A PRISONER WHO BRINGS A CIVIL ACTION OR APPEALS A JUDG-
4 MENT CONCERNING PRISON CONDITIONS UNDER THIS CHAPTER SHALL, UPON
5 COMMENCEMENT OF THE ACTION OR INITIATION OF THE APPEAL, DISCLOSE
6 THE NUMBER OF CIVIL ACTIONS AND APPEALS UNDER THIS CHAPTER THAT
7 THE PRISONER HAS PREVIOUSLY INITIATED.

8 (3) THE COURT SHALL DISMISS A CIVIL ACTION OR APPEAL UNDER
9 THIS CHAPTER AT ANY TIME, REGARDLESS OF ANY FILING FEE THAT MAY
10 HAVE BEEN PAID, IF THE COURT FINDS ANY OF THE FOLLOWING:

11 (A) THE PRISONER'S CLAIM OF IMMINENT DANGER UNDER SUBSECTION
12 (1) IS FALSE.

13 (B) THE PRISONER FAILS TO COMPLY WITH THE DISCLOSURE
14 REQUIREMENTS OF SUBSECTION (2).

15 SEC. 5509. (1) THE COURT SHALL REVIEW AS SOON AS PRACTICA-
16 BLE A COMPLAINT IN A CIVIL ACTION IN WHICH A PRISONER SEEKS
17 REDRESS FROM A GOVERNMENTAL ENTITY OR OFFICER OR EMPLOYEE OF A
18 GOVERNMENTAL ENTITY.

19 (2) ON REVIEW, THE COURT SHALL DISMISS THE COMPLAINT OR A
20 PORTION OF THE COMPLAINT IF THE COURT FINDS EITHER OF THE
21 FOLLOWING:

22 (A) THE COMPLAINT OR A PORTION OF THE COMPLAINT IS
23 NONMERITORIOUS.

24 (B) THE COMPLAINT SEEKS MONETARY RELIEF FROM A DEFENDANT WHO
25 IS IMMUNE FROM THE REQUESTED RELIEF.

26 (3) A DEFENDANT MAY WAIVE THE RIGHT TO REPLY TO AN ACTION
27 BROUGHT BY A PRISONER. NOTWITHSTANDING ANY OTHER LAW OR RULE OF

1 PROCEDURE, A WAIVER UNDER THIS SUBSECTION DOES NOT CONSTITUTE AN
2 ADMISSION OF THE ALLEGATIONS CONTAINED IN THE COMPLAINT. RELIEF
3 SHALL NOT BE GRANTED TO THE PLAINTIFF UNLESS A REPLY HAS BEEN
4 FILED.

5 (4) THE COURT MAY REQUIRE A DEFENDANT TO REPLY TO A COM-
6 PLAINTE COMMENCED UNDER THIS CHAPTER IF IT FINDS THAT THE PLAIN-
7 TIF HAS A REASONABLE OPPORTUNITY TO PREVAIL ON THE MERITS.

8 (5) IF, AFTER REVIEWING THE COMPLAINT, THE COURT DOES NOT
9 DISMISS THE COMPLAINT UNDER THIS SECTION, THE COURT SHALL INDI-
10 CATE IN THE RECORD THE REASONS FOR THAT DECISION.

11 SEC. 5511. (1) A PRISONER SHALL NOT BRING AN ACTION FOR
12 MENTAL OR EMOTIONAL INJURY SUFFERED WHILE IN CUSTODY WITHOUT A
13 SHOWING OF PHYSICAL INJURY ARISING OUT OF THE INCIDENT GIVING
14 RISE TO THE MENTAL OR EMOTIONAL INJURY.

15 (2) ANY DAMAGES AWARDED TO A PRISONER IN CONNECTION WITH A
16 CIVIL ACTION BROUGHT AGAINST A PRISON OR AGAINST AN OFFICIAL OR
17 AGENT OF A PRISON SHALL BE PAID DIRECTLY TO SATISFY ANY OUTSTAND-
18 ING RESTITUTION ORDERS PENDING AGAINST THE PRISONER, INCLUDING,
19 BUT NOT LIMITED TO, RESTITUTION ORDERS ISSUED UNDER THE STATE
20 CORRECTIONAL FACILITY REIMBURSEMENT ACT, 1935 PA 253, MCL 800.401
21 TO 800.406, THE PRISONER REIMBURSEMENT TO THE COUNTY ACT, 1984 PA
22 118, MCL 801.81 TO 801.93, 1982 PA 14, MCL 801.301, AND THE CRIME
23 VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.751 TO 780.834, AND ANY
24 OUTSTANDING COSTS AND FEES AS REQUIRED UNDER THIS CHAPTER. THE
25 REMAINDER OF THE AWARD AFTER FULL PAYMENT OF ALL PENDING RESTITU-
26 TION ORDERS, COSTS, AND FEES SHALL BE FORWARDED TO THE PRISONER.

1 (3) BEFORE PAYMENT OF ANY DAMAGES AWARDED TO A PRISONER IN
2 CONNECTION WITH A CIVIL ACTION DESCRIBED IN SUBSECTION (2),
3 REASONABLE EFFORTS SHALL BE MADE TO NOTIFY THE VICTIMS OF THE
4 CRIME FOR WHICH THE PRISONER WAS CONVICTED AND INCARCERATED CON-
5 CERNING THE PENDING PAYMENT OF DAMAGES.

6 SEC. 5513. IN A CIVIL ACTION BROUGHT BY A PRISONER, THE
7 COURT MAY ORDER THE REVOCATION OF SUCH GOOD TIME CREDIT IF, ON
8 ITS OWN MOTION OR THE MOTION OF ANY PARTY, THE COURT FINDS THAT
9 THE PRISONER FILED AN ACTION PROHIBITED UNDER SECTION 5503 OR
10 5505 AND 1 OF THE FOLLOWING APPLIES:

11 (A) THE CLAIM WAS FILED FOR A MALICIOUS PURPOSE.

12 (B) THE CLAIM WAS FILED SOLELY TO HARASS THE PARTY AGAINST
13 WHOM IT WAS FILED.

14 (C) THE PRISONER TESTIFIED FALSELY OR OTHERWISE KNOWINGLY
15 PRESENTS FALSE EVIDENCE OR INFORMATION TO THE COURT.

16 SEC. 5515. (1) TO THE EXTENT PRACTICABLE, IN AN ACTION
17 BROUGHT BY A PRISONER, PRETRIAL PROCEEDINGS IN WHICH THE
18 PRISONER'S PARTICIPATION IS REQUIRED OR PERMITTED SHALL BE CON-
19 DUCTED BY TELEPHONE, VIDEO CONFERENCE, OR OTHER TELECOMMUNICA-
20 TIONS TECHNOLOGY WITHOUT REMOVING THE PRISONER FROM THE PRISON IN
21 WHICH THE PRISONER IS CONFINED.

22 (2) SUBJECT TO THE AGREEMENT OF THE OFFICIAL OF THE STATE OR
23 LOCAL UNIT OF GOVERNMENT WITH CUSTODY OVER THE PRISONER, HEARINGS
24 MAY BE CONDUCTED AT THE PRISON IN WHICH THE PRISONER IS
25 CONFINED. TO THE EXTENT PRACTICABLE, THE COURT SHALL ALLOW COUN-
26 SEL TO PARTICIPATE BY TELEPHONE, VIDEO CONFERENCE, OR OTHER
27 COMMUNICATIONS TECHNOLOGY IN A HEARING HELD AT THE PRISON.

1 SEC. 5517. (1) THE COURT SHALL NOT GRANT OR APPROVE ANY
2 PROSPECTIVE RELIEF IN AN ACTION UNDER THIS CHAPTER UNLESS THE
3 COURT FINDS THAT THE RELIEF IS NARROWLY DRAWN, EXTENDS NO FURTHER
4 THAN NECESSARY TO CORRECT THE VIOLATION OF THE RIGHT, AND IS THE
5 LEAST INTRUSIVE MEANS NECESSARY TO CORRECT THE VIOLATION OF THE
6 RIGHT. THE COURT SHALL GIVE SUBSTANTIAL WEIGHT TO ANY ADVERSE
7 EFFECT ON PUBLIC SAFETY OR THE OPERATION OF THE CRIMINAL JUSTICE
8 SYSTEM CAUSED BY THE RELIEF.

9 (2) A COURT SHALL NOT ORDER PROSPECTIVE RELIEF THAT REQUIRES
10 OR PERMITS A GOVERNMENT OFFICIAL TO EXCEED HIS OR HER AUTHORITY
11 UNDER STATE OR LOCAL LAW OR OTHERWISE VIOLATES LOCAL LAW, UNLESS
12 ALL OF THE FOLLOWING CONDITIONS EXIST:

13 (A) STATE LAW PERMITS THE RELIEF TO BE ORDERED IN VIOLATION
14 OF LOCAL LAW.

15 (B) THE RELIEF IS NECESSARY TO CORRECT THE VIOLATION OF A
16 RIGHT UNDER STATE OR LOCAL LAW.

17 (C) NO OTHER RELIEF WILL CORRECT THE VIOLATION OF THE
18 RIGHT.

19 (3) THIS SECTION DOES NOT AUTHORIZE A COURT, IN EXERCISING
20 ITS REMEDIAL POWERS, TO ORDER THE CONSTRUCTION OF PRISONS OR THE
21 RAISING OF TAXES, OR TO REPEAL OR DETRACT FROM OTHERWISE APPLICA-
22 BLE LIMITATIONS ON THE REMEDIAL POWERS OF THE COURT.

23 SEC. 5519. THE COURT MAY ENTER A TEMPORARY RESTRAINING
24 ORDER OR AN ORDER FOR PRELIMINARY INJUNCTIVE RELIEF IN AN ACTION
25 UNDER THIS CHAPTER TO THE EXTENT OTHERWISE AUTHORIZED BY LAW.
26 PRELIMINARY INJUNCTIVE RELIEF SHALL BE NARROWLY DRAWN, EXTEND NO
27 FURTHER THAN NECESSARY TO CORRECT THE HARM THE COURT FINDS

1 REQUIRES PRELIMINARY RELIEF, AND BE THE LEAST INTRUSIVE MEANS
2 NECESSARY TO CORRECT THAT HARM. THE COURT SHALL GIVE SUBSTANTIAL
3 WEIGHT TO ANY ADVERSE EFFECT ON PUBLIC SAFETY OR THE OPERATION OF
4 THE CRIMINAL JUSTICE SYSTEM CAUSED BY THE PRELIMINARY RELIEF IN
5 TAILORING THE PRELIMINARY RELIEF. PRELIMINARY INJUNCTIVE RELIEF
6 SHALL AUTOMATICALLY EXPIRE 90 DAYS AFTER THE PRELIMINARY INJUNC-
7 TIVE ORDER IS ENTERED, UNLESS THE COURT MAKES THE FINDINGS
8 REQUIRED UNDER SECTION 5517(1) FOR THE ENTRY OF PROSPECTIVE
9 RELIEF AND MAKES THE ORDER FINAL BEFORE THE EXPIRATION OF THE
10 90-DAY PERIOD.

11 SEC. 5521. (1) EXCEPT AS PROVIDED IN SECTIONS 5519 AND
12 5523, PROSPECTIVE RELIEF ORDERED UNDER THIS CHAPTER SHALL BE TER-
13 MINABLE UPON THE MOTION OF A PARTY OR INTERVENOR AS FOLLOWS:

14 (A) TWO YEARS AFTER THE DATE THE COURT GRANTED OR APPROVED
15 THE PROSPECTIVE RELIEF.

16 (B) ONE YEAR AFTER THE DATE THE COURT ENTERED AN ORDER DENY-
17 ING TERMINATION OF PROSPECTIVE RELIEF.

18 (C) IN THE CASE OF AN ORDER ISSUED ON OR BEFORE THE DATE THE
19 AMENDATORY ACT THAT ADDED THIS CHAPTER IS ENACTED INTO LAW, 2
20 YEARS AFTER THAT DATE OF ENACTMENT.

21 (2) THIS SECTION DOES NOT PREVENT THE PARTIES FROM AGREEING
22 TO TERMINATE OR MODIFY RELIEF BEFORE THE RELIEF IS TERMINATED
23 UNDER SUBSECTION (1).

24 SEC. 5523. (1) A DEFENDANT OR INTERVENOR IS ENTITLED TO THE
25 IMMEDIATE TERMINATION OF A PROSPECTIVE RELIEF ORDERED IN AN
26 ACTION UNDER THIS CHAPTER IF THE RELIEF WAS ORDERED IN THE
27 ABSENCE OF A FINDING BY THE COURT THAT THE RELIEF IS NARROWLY

1 DRAWN, EXTENDS NO FURTHER THAN NECESSARY TO CORRECT THE VIOLATION
2 OF THE STATE RIGHT, AND IS THE LEAST INTRUSIVE MEANS NECESSARY TO
3 CORRECT THE VIOLATION OF A RIGHT UNDER STATE OR LOCAL LAW.

4 (2) PROSPECTIVE RELIEF SHALL NOT TERMINATE IF THE COURT
5 MAKES WRITTEN FINDINGS BASED ON THE RECORD THAT PROSPECTIVE
6 RELIEF REMAINS NECESSARY TO CORRECT A CURRENT OR ONGOING VIOLA-
7 TION OF THE RIGHT, EXTENDS NO FURTHER THAN NECESSARY TO CORRECT
8 THE VIOLATION OF THE RIGHT, AND IS NARROWLY DRAWN AND THE LEAST
9 INTRUSIVE MEANS TO CORRECT THE VIOLATION.

10 (3) A PARTY SHALL NOT SEEK MODIFICATION OR TERMINATION
11 BEFORE THE RELIEF IS TERMINABLE UNDER SECTION 5521 TO THE EXTENT
12 THAT MODIFICATION OR TERMINATION WOULD OTHERWISE BE LEGALLY
13 PERMISSIBLE.

14 SEC. 5525. (1) IN AN ACTION UNDER THIS CHAPTER, THE COURT
15 SHALL NOT ENTER OR APPROVE A CONSENT DECREE UNLESS IT COMPLIES
16 WITH THE LIMITATIONS ON RELIEF SET FORTH IN SECTIONS 5517 AND
17 5519.

18 SEC. 5527. (1) THE COURT SHALL PROMPTLY RULE ON A MOTION TO
19 MODIFY OR TERMINATE PROSPECTIVE RELIEF IN AN ACTION UNDER THIS
20 CHAPTER.

21 (2) ANY PROSPECTIVE RELIEF SUBJECT TO A PENDING MOTION SHALL
22 BE AUTOMATICALLY STAYED DURING 1 OF THE FOLLOWING PERIODS:

23 (A) BEGINNING ON THE THIRTIETH DAY AFTER THE MOTION IS
24 FILED, IN THE CASE OF A MOTION MADE UNDER SECTION 5521 OR 5523,
25 AND ENDING ON THE DATE THE COURT ENTERS A FINAL ORDER RULING ON
26 THE MOTION.

1 (B) BEGINNING ON THE ONE HUNDRED EIGHTIETH DAY AFTER THE
2 MOTION IS FILED, IN THE CASE OF A MOTION MADE UNDER ANY OTHER
3 LAW, AND ENDING ON THE DATE THE COURT ENTERS A FINAL ORDER RULING
4 ON THE MOTION.

5 (3) THE COURT MAY POSTPONE THE EFFECTIVE DATE OF AN AUTO-
6 MATIC STAY SPECIFIED IN SUBSECTION (2) FOR GOOD CAUSE FOR NOT
7 MORE THAN 60 DAYS. AS USED IN THIS SUBSECTION, "GOOD CAUSE" DOES
8 NOT INCLUDE THE CONGESTION OF THE COURT'S CALENDAR.

9 (4) AN ORDER STAYING, SUSPENDING, DELAYING, OR BARRING THE
10 OPERATION OF AN AUTOMATIC STAY DESCRIBED IN SUBSECTION (2), OTHER
11 THAN AN ORDER TO POSTPONE THE EFFECTIVE DATE OF THE AUTOMATIC
12 STAY UNDER SUBSECTION (3), SHALL BE TREATED AS AN ORDER DENYING
13 THE DISSOLUTION OF OR MODIFICATION OF AN INJUNCTION AND MAY BE
14 APPEALED AS OF RIGHT REGARDLESS OF HOW THE ORDER IS STYLED OR
15 WHETHER THE ORDER IS TERMED A PRELIMINARY OR FINAL RULING.

16 SEC. 5529. (1) THE COURT MAY APPOINT A SPECIAL MASTER WHO
17 IS DISINTERESTED AND OBJECTIVE AND WHO WILL GIVE DUE REGARD TO
18 THE PUBLIC SAFETY, TO CONDUCT HEARINGS ON THE RECORD AND PREPARE
19 PROPOSED FINDINGS OF FACT IN AN ACTION UNDER THIS CHAPTER. THE
20 COURT SHALL APPOINT A SPECIAL MASTER UNDER THIS SUBSECTION DURING
21 THE REMEDIAL PHASE OF THE ACTION ONLY UPON A FINDING THAT THE
22 REMEDIAL PHASE WILL BE SUFFICIENTLY COMPLEX TO WARRANT THE
23 APPOINTMENT.

24 (2) IF THE COURT DETERMINES THAT THE APPOINTMENT OF A SPE-
25 CIAL MASTER IS NECESSARY UNDER SUBSECTION (1), THE COURT SHALL
26 REQUEST THAT THE DEFENDANT INSTITUTION AND THE PLAINTIFF EACH
27 SUBMIT A LIST OF NOT MORE THAN 5 PERSONS TO SERVE AS A SPECIAL

1 MASTER. EACH PARTY SHALL HAVE THE OPPORTUNITY TO REMOVE UP TO 3
2 PERSONS FROM THE OPPOSING PARTY'S LIST. THE COURT SHALL THEN
3 SELECT THE MASTER FROM THE PERSONS REMAINING ON THE LIST.

4 (3) A PARTY MAY FILE AN INTERLOCUTORY APPEAL OF THE COURT'S
5 SELECTION OF THE SPECIAL MASTER UNDER THIS SECTION.

6 (4) A SPECIAL MASTER UNDER THIS SECTION SHALL BE COMPENSATED
7 FOR HIS OR HER ACTUAL AND NECESSARY COSTS BASED ON AN HOURLY RATE
8 NOT GREATER THAN THE HOURLY RATE ESTABLISHED FOR PAYMENT OF
9 COURT-APPOINTED COUNSEL. THE COMPENSATION SHALL BE PAID WITH
10 FUNDS APPROPRIATED FOR PAYMENT OF COURT-APPOINTED COUNSEL.

11 (5) THE COURT SHALL REVIEW THE APPOINTMENT OF THE SPECIAL
12 MASTER EVERY 6 MONTHS TO DETERMINE WHETHER THE SERVICES OF THE
13 SPECIAL MASTER CONTINUE TO BE REQUIRED UNDER SUBSECTION (1).
14 HOWEVER, THE APPOINTMENT OF A SPECIAL MASTER SHALL NOT EXTEND
15 BEYOND THE TERMINATION OF THE RELIEF.

16 (6) A SPECIAL MASTER APPOINTED UNDER THIS SECTION HAS THE
17 FOLLOWING AUTHORITY AND LIMITATIONS:

18 (A) TO CONDUCT HEARINGS AND PREPARE PROPOSED FINDINGS OF
19 FACT, WHICH SHALL BE MADE ON THE RECORD, IF AUTHORIZED BY THE
20 COURT TO DO SO.

21 (B) TO MAKE NO EX PARTE FINDINGS OR COMMUNICATIONS.

22 (C) TO ASSIST IN THE DEVELOPMENT OF REMEDIAL PLANS, IF
23 AUTHORIZED BY THE COURT TO DO SO.

24 (D) TO BE RELIEVED OF THE APPOINTMENT UPON THE TERMINATION
25 OF RELIEF, BUT MAY BE REMOVED BY THE COURT AT ANY TIME.

26 SEC. 5531. (1) THE STATE COURT ADMINISTRATIVE OFFICE SHALL
27 COMPILE AND MAINTAIN A LIST OF THE CIVIL ACTIONS BROUGHT BY A

1 PRISONER UNDER THIS CHAPTER THAT ARE DISMISSED AS
2 NONMERITORIOUS. THE LIST SHALL INCLUDE AN ACCOUNT OF THE AMOUNT
3 OF UNPAID FEES AND COSTS ASSOCIATED WITH EACH DISMISSED CASE.
4 THE LIST SHALL BE MADE AVAILABLE TO THE COURTS OF THIS STATE FOR
5 THE PURPOSE OF ASCERTAINING THE EXISTENCE AND NUMBER OF CIVIL
6 ACTIONS FILED UNDER THIS CHAPTER BY EACH PRISONER, AND ANY ASSO-
7 CIATED UNPAID FEES AND COSTS, FOR THE PURPOSES DESCRIBED IN THIS
8 CHAPTER.

9 (2) A COURT IN WHICH A CIVIL ACTION UNDER THIS CHAPTER IS
10 BROUGHT SHALL REFER TO THE LIST DESCRIBED IN SUBSECTION (1) TO
11 DETERMINE THE NUMBER AND EXISTENCE OF CIVIL ACTIONS PREVIOUSLY
12 FILED UNDER THIS CHAPTER BY A PRISONER AND ANY ASSOCIATED UNPAID
13 FEES AND COSTS.

14 SEC. 5533. AS USED IN THIS CHAPTER:

15 (A) "CIVIL ACTION CONCERNING PRISON CONDITIONS" MEANS ANY
16 CIVIL PROCEEDING ARISING UNDER STATE OR LOCAL LAW WITH RESPECT TO
17 PRISON CONDITIONS OR THE EFFECTS OF ACTIONS BY GOVERNMENT OFFI-
18 CIALS ON THE LIVES OF PRISONERS, BUT DOES NOT INCLUDE PROCEEDINGS
19 CHALLENGING THE FACT OR DURATION OF CONFINEMENT IN PRISON.

20 (B) "CONSENT DECREE" MEANS ANY RELIEF ENTERED BY THE COURT
21 THAT IS BASED IN WHOLE OR IN PART UPON THE CONSENT OR ACQUIES-
22 CENCE OF THE PARTIES BUT DOES NOT INCLUDE PRIVATE SETTLEMENTS.

23 (C) "NONMERITORIOUS" MEANS FRIVOLOUS, FALSE, MALICIOUS, NOT
24 REASONABLY RELATED TO LEGITIMATE PENOLOGICAL INTERESTS, OR OTHER-
25 WISE FAILING TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED.

26 (D) "PRISON" MEANS A STATE OR LOCAL FACILITY THAT
27 INCARCERATES OR DETAINS JUVENILES OR ADULTS ACCUSED OF, CONVICTED

1 OF, SENTENCED FOR, OR ADJUDICATED DELINQUENT FOR, VIOLATIONS OF
2 STATE OR LOCAL LAW.

3 (E) "PRISONER" MEANS A PERSON SUBJECT TO INCARCERATION,
4 DETENTION, OR ADMISSION TO A PRISON WHO IS ACCUSED OF, CONVICTED
5 OF, SENTENCED FOR, OR ADJUDICATED DELINQUENT FOR VIOLATIONS OF
6 STATE OR LOCAL LAW OR THE TERMS AND CONDITIONS OF PAROLE, PROBA-
7 TION, PRETRIAL RELEASE, OR A DIVERSIONARY PROGRAM.

8 (F) "PRIVATE SETTLEMENT AGREEMENT" MEANS AN AGREEMENT
9 ENTERED INTO AMONG THE PARTIES THAT IS NOT SUBJECT TO JUDICIAL
10 ENFORCEMENT OTHER THAN THE REINSTATEMENT OF THE CIVIL PROCEEDING
11 THAT THE AGREEMENT SETTLED.

12 (G) "PROSPECTIVE RELIEF" MEANS ALL RELIEF OTHER THAN MONE-
13 TARY DAMAGES.

14 (H) "RELIEF" MEANS ALL RELIEF IN ANY FORM THAT MAY BE
15 GRANTED OR APPROVED BY THE COURT, AND INCLUDES CONSENT DECREES
16 BUT DOES NOT INCLUDE PRIVATE SETTLEMENT AGREEMENTS.

17 (I) "SPECIAL MASTER" MEANS A PERSON APPOINTED BY A COURT
18 UNDER SECTION 5529.

19 Enacting section 1. Section 2963 of the revised judicature
20 act of 1961, 1961 PA 236, MCL 600.2963, is repealed.

21 Enacting section 2. This amendatory act does not take
22 effect unless Senate Bill No. 406 of the 90th Legislature is
23 enacted into law.