

104TH CONGRESS
1ST SESSION

S. 1115

To prohibit an award of costs, including attorney's fees, or injunctive relief,
against a judicial officer for action taken in a judicial capacity.

IN THE SENATE OF THE UNITED STATES

AUGUST 3 (legislative day, JULY 10), 1995

Mr. THURMOND (for himself, Mr. HEFLIN, Mr. HATCH, Mr. GRASSLEY, and
Mr. D'AMATO) introduced the following bill; which was read twice and
referred to the Committee on the Judiciary

A BILL

To prohibit an award of costs, including attorney's fees,
or injunctive relief, against a judicial officer for action
taken in a judicial capacity.

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. PROHIBITION AGAINST AWARDS OF COSTS, IN-**
4 **CLUDING ATTORNEY'S FEES, AND INJUNC-**
5 **TIVE RELIEF AGAINST A JUDICIAL OFFICER.**

6 (a) NONLIABILITY FOR COSTS.—Notwithstanding
7 any other provision of law, no judicial officer shall be held
8 liable for any costs, including attorney's fees, in any action
9 brought against such officer for an act or omission taken

1 in such officer's judicial capacity, unless such action was
2 clearly in excess of such officer's jurisdiction.

3 (b) PROCEEDINGS IN VINDICATION OF CIVIL
4 RIGHTS.—Section 722(b) of the Revised Statutes (42
5 U.S.C. 1988(b)) is amended by inserting before the period
6 at the end thereof “, except that in any action brought
7 against a judicial officer for an act or omission taken in
8 such officer's judicial capacity such officer shall not be
9 held liable for any costs, including attorney's fees, unless
10 such action was clearly in excess of such officer's jurisdic-
11 tion”.

12 (c) CIVIL ACTION FOR DEPRIVATION OF RIGHTS.—
13 Section 1979 of the Revised Statutes (42 U.S.C. 1983)
14 is amended by inserting before the period at the end of
15 the first sentence: “, except that in any action brought
16 against a judicial officer for an act or omission taken in
17 such officer's judicial capacity, injunctive relief shall not
18 be granted unless a declaratory decree was violated or de-
19 claratory relief was unavailable”.

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