

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.

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

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, multiform 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-
12minate filed under paragraph (1) within 60
13 days, the order or consent judgment binding
14 State or local officials will automatically termi-
15nate 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 igned 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 reme-
20 dy 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—

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

9 (B) by adding at the end the following:

10 “(5) TERMINATION OF PROSPECTIVE RELIEF.—

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

13 “(i) IN GENERAL.—In the answer to
14 the motion to terminate prospective relief,
15 the plaintiff may oppose termination in ac-
16 cordance with this subparagraph, on the
17 ground that the prospective relief remains
18 necessary to correct a current and ongoing
19 violation of a Federal right.

20 “(ii) RELIEF ENTERED BEFORE EN-
21 ACTMENT OF PRISON LITIGATION REFORM
22 ACT.—If the prospective relief sought to be
23 terminated was entered before the date of
24 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-

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

9 “(D) SUMMARY DETERMINATION.—The
10 court shall grant the motion to terminate if the
11 plaintiff’s answer fails to satisfy the require-
12 ments of subparagraph (A) or if the materials
13 accompanying the plaintiff’s answer together
14 with the materials accompanying the defend-
15 ant’s response fail to carry the plaintiff’s bur-
16 den of persuasion or fail to create a genuine
17 issue of material fact regarding whether the re-
18 lief should be maintained.

19 “(E) EVIDENTIARY HEARING.—If the
20 court determines that there is a genuine issue
21 of material fact that precludes it from making
22 a summary determination concerning the mo-
23 tion on the basis of the materials filed by the
24 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”;

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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