

.....
(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

8 (a) CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS

9 ACT.—Section 7 of the Civil Rights of Institutionalized

1 Persons Act (42 U.S.C. 1997e) is amended by striking
2 subsection (e).

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

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

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

11 “(a) ADMINISTRATIVE REMEDIES.—

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

1 “(2) STAY.—If a claim included in a complaint
2 has not been presented as required by paragraph
3 (1), and the court does not dismiss the claim under
4 section 1915A(b) of title 28, United States Code,
5 the court shall stay the action for a period not to
6 exceed 90 days and shall direct prison officials to
7 consider the relevant claim or claims through such
8 administrative process as they deem appropriate.
9 However, the court shall not stay the action if the
10 court determines that the prisoner is in danger of
11 immediate harm.

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

16 **SEC. 4. EXEMPTION OF JUVENILES FROM PRISON LITIGA-**
17 **TION REFORM ACT.**

18 (a) TITLE 18.—

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

21 (A) in paragraph (3) by striking “or adju-
22 dicated delinquent for,”; and

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

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

4 (2) ADULT CONVICTIONS.—Section 3626 of title
5 18, United States Code, is amended by adding at
6 the end the following:

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

10 (b) CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS
11 ACT.—

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

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

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

22 (c) TITLE 28.—Title 28, United States Code, is
23 amended—

24 (1) in section 1915(h)—

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

3 (B) by striking “or adjudicated delinquent
4 for,”; and

5 (2) in section 1915A(c)—

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

8 (B) by striking “or adjudicated delinquent
9 for,”.

10 **SEC. 5. MODIFICATION OF BAN ON MULTIPLE IN FORMA**
11 **PAUPERIS CLAIMS.**

12 Section 1915(g) of title 28, United States Code, is
13 amended—

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

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

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

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

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

23 (2) by inserting “and the action is dismissed at
24 initial screening pursuant to subsection (e)(2) of this
25 section, section 1915A of this title, or section 7(e)(1)

1 of the Civil Rights of Institutionalized Persons Act
2 (42 U.S.C. 1997e(c)(1)),” after “in forma
3 pauperis,”.

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

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

9 **SEC. 8. ENCOURAGEMENT OF APPROPRIATE SETTLEMENT**
10 **OF PRISONER LITIGATION.**

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

15 **SEC. 9. JUDICIAL DISCRETION IN CRAFTING PRISON ABUSE**
16 **REMEDIES.**

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

19 (1) in subsection (a)(2) by striking the final
20 sentence;

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

1 (3) in subsection (b)(1)(B), by adding at the
2 end the following: “Nothing in this section shall pre-
3 vent the court from extending any of the time peri-
4 ods set out in subsection (A), if the court finds, at
5 the time of granting or approval of the prospective
6 relief, that correction of the violation will take longer
7 than those time periods.”; and

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

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

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