

BY REPRESENTATIVE EDMONSTON

To amend and reenact R.S. 15:1186(A) and (B)(1) and 1188(B)(2), relative to civil claims of prisoners; to provide relative for proceeding in forma pauperis; to provide for procedural requirements; and to provide for related matters.

Section 1. R.S. 15:1186(A) and (B)(1) and 1188(B)(2) are hereby amended and reenacted to read as follows:

A.(1) A prisoner who seeks to bring a civil action or file an appeal or writ application in a civil action without prepayment of fees or security ~~must~~ shall comply with all requirements for proceeding in forma pauperis except for Code of Civil Procedure Article 5183(A)(2).

(2)(a) ~~and~~ A prisoner who is incarcerated in any prison at the time of his application to proceed in forma pauperis shall submit a certified copy of the trust fund account statement or institutional equivalent for the six-month period immediately preceding the filing of the petition, notice of appeal, or writ application obtained from the appropriate official of each prison ~~at which~~ where the prisoner is ~~or was~~ confined. If the prisoner was incarcerated for less than six months at the time of his application to proceed in forma pauperis, his account statement shall be limited to the period of incarceration.

(b) A prisoner who is no longer incarcerated in any prison at the time of his application to proceed in forma pauperis shall submit an affidavit of the prisoner's present assets and any supporting documentation pursuant to Code of Civil Procedure Article 5183(A)(1).

1 ~~(2)~~ (3) If a prisoner brings a civil action or files an appeal or writ application
2 in forma pauperis as authorized by Paragraph (A)(1) of this Section, the prisoner
3 shall still be required to pay the full amount of a filing fee. The court shall assess
4 and, when funds exist, collect, as a partial payment of any court fees required by law,
5 an initial partial filing fee ~~of~~ calculated as follows:

6 (a) For partial filing fees based on a trust account or institutional equivalent,
7 the fee shall be twenty percent of the greater of the average monthly deposits to the
8 prisoner's account, or the average monthly balance in the prisoner's account for the
9 six-month period immediately preceding the filing of the petition, notice of appeal,
10 or writ application.

11 (b) For partial filing fees based on a prisoner's present assets, the fee shall
12 be determined based on the fee schedule in Code of Civil Procedure Article 5181.

13 ~~(3)~~ (4) If a prisoner brings a civil action, files an appeal, or files a writ
14 application in which the prisoner is not allowed to proceed as a pauper, the prisoner
15 ~~must~~ shall pay the required costs in advance. If the prisoner does not pay the costs
16 in advance, the civil action, appeal, or writ application shall be dismissed without
17 prejudice. If the action is dismissed pursuant to this Paragraph, the filing of the suit
18 shall not be considered an interruption of prescription for purposes of Civil Code
19 Article 3463.

20 B.(1) After payment of the initial partial filing fee, as required by Paragraph
21 ~~(A)(2)~~ (A)(3) of this Section, the prisoner shall be required to make monthly
22 payments of twenty percent of the preceding month's income credited to the
23 prisoner's account. ~~The agency having custody of the prisoner shall forward~~
24 ~~payments from the prisoner's account to the clerk of the court each time the amount~~
25 ~~in the account exceeds ten dollars until the filing fees are paid.~~ In no event shall the
26 filing fee collected exceed the amount of fees permitted by statute law.

27 (a) If the prisoner is incarcerated in a prison, the order granting pauper status
28 shall direct the agency having custody of the prisoner to forward payments from the
29 prisoner's account to the clerk of court each time the amount in the account exceeds
30 ten dollars until the filing fees are paid.

