

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 793**

Introduced by Lautenbaugh, 18; Cornett, 45.

Read first time January 05, 2012

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to civil procedure; to limit frivolous civil
- 2 actions filed by prisoners as prescribed; and to provide
- 3 a duty for the Revisor of Statutes.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) For purposes of this section:

2           (a) Civil action means a legal action seeking monetary  
3 damages, injunctive relief, declaratory relief, or any appeal filed  
4 in any court in this state that relates to or involves a prisoner's  
5 conditions of confinement. Civil action does not include a motion for  
6 postconviction relief or petition for habeas corpus relief;

7           (b) Conditions of confinement means any circumstance,  
8 situation, or event that involves a prisoner's custody,  
9 transportation, incarceration, or supervision;

10          (c) Correctional institution means any state or local  
11 facility that incarcerates or detains any adult accused of, charged  
12 with, convicted of, or sentenced for any crime;

13          (d) Frivolous means the law and evidence supporting a  
14 litigant's position is wholly without merit or rational argument; and

15          (e) Prisoner means any person who is incarcerated,  
16 imprisoned, or otherwise detained in a correctional institution.

17          (2)(a) A prisoner who has filed three or more civil  
18 actions, commenced after the effective date of this act, that have  
19 been declared to be frivolous by a court of this state or a federal  
20 court for a case originating in this state shall not be permitted to  
21 proceed in forma pauperis for any further civil actions without leave  
22 of court. A court may permit the prisoner to proceed in forma  
23 pauperis if the court determines that the person is in imminent  
24 danger of serious bodily injury.

25          (b) A court may include in its final order or judgment in

1 any civil action a finding that the action was frivolous.

2 (c) A finding under subdivision (2)(b) of this section  
3 shall be reflected in the docket entries of the case.

4 (d) This subsection does not apply to judicial review of  
5 disciplinary procedures in adult institutions administered by the  
6 Department of Correctional Services governed by sections 83-4,109 to  
7 83-4,123.

8 Sec. 2. The Revisor of Statutes shall assign section 1 of  
9 this act to a new article in Chapter 25.