

CHAPTER 167**CIVIL LITIGATION BY INMATES AND PRISONERS – INMATE ACCOUNTS****H.F. 246**

AN ACT relating to civil litigation by inmates and prisoners and deductions from inmate accounts for certain expenses, including costs of litigation by inmates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION.** 610A.1 ACTIONS OR APPEALS BROUGHT BY INMATES.

1. Notwithstanding section 610.1 or 822.5, if the person bringing a civil action or appeal is an inmate of an institution or facility under the control of the department of corrections or a prisoner of a municipal jail or detention facility, the inmate or prisoner shall pay in full all fees and costs associated with the action or appeal.

a. Upon filing of the action or appeal, the court shall order the inmate or prisoner to pay a minimum of twenty percent of the required filing fee before the court will take any further action on the inmate's or prisoner's action or appeal and shall also order the inmate or prisoner to make monthly payments of ten percent of all outstanding fees and costs associated with the inmate's or prisoner's action or appeal.

b. If the inmate has an inmate account under section 904.702, the department of corrections shall withdraw moneys maintained in the account for the payment of fees and costs associated with the inmate's action or appeal in accordance with the court's order until the required fees and costs are paid in full. The inmate shall file a certified copy of the inmate's account balance with the court at the time the action or appeal is filed.

c. An inmate may authorize the department of corrections to make or the inmate may make an initial or subsequent payment beyond that requirement by this section.

d. The court may dismiss any civil action or appeal in which the inmate or prisoner has previously failed to pay fees and costs in accordance with this section.

2. The court may make the authorization provided for in section 610.1 if it finds that the inmate does not have sufficient moneys in the inmate's account or sufficient moneys flowing into the account to make the payments required in this section or, in the case of a prisoner of a municipal jail or detention facility, that the prisoner otherwise meets the requirements of section 610.1.

Sec. 2. **NEW SECTION.** 610A.2 DISMISSAL OF ACTION OR APPEAL.

1. In addition to the penalty provided in section 610.5, the court in which an affidavit of inability to pay has been filed may dismiss the action or appeal in whole or in part on a finding of either of the following:

a. The allegation of inability to pay is false.

b. The action or appeal is frivolous or malicious in whole or in part.

2. In determining whether an action or appeal is frivolous or malicious, the court may consider whether the claim has no arguable basis in law or fact or the claim is substantially similar to a previous claim, either in that it is brought against the same party or in that the claim arises from the same operative facts as a previous claim which was determined to be frivolous or malicious.

3. In making the determination under subsection 1, the court may hold a hearing before or after service of process on its own motion or on the motion of a party. The hearing may be held by telephone or video conference on the motion of the court or of a party.

4. The court may dismiss the entire action or appeal or a portion of the action or appeal before or after service of process. If a portion of the action or appeal is dismissed, the court shall also designate the issues and defendants on which the action or appeal is to proceed without paying fees and costs. This order is not subject to interlocutory appeal.

Sec. 3. **NEW SECTION.** 610A.3 LOSS OF GOOD CONDUCT TIME.

If an action or appeal brought by an inmate or prisoner in state or federal court is determined to be malicious or filed solely to harass or if the inmate or prisoner testifies falsely or otherwise presents false evidence or information to the court in such an action, the inmate shall lose some or all of the good conduct time credits acquired by the inmate or prisoner. The court may make an order deducting the credits or the credits may be deducted pursuant to a disciplinary hearing pursuant to chapter 903A at the facility at which the inmate is held.

Sec. 4. NEW SECTION. 610A.4 COST SETOFF.

The state or a municipality shall have the right to set off the cost of incarceration of an inmate or prisoner at any time, following notice and hearing, against any claim made by or monetary obligation owed to an inmate or prisoner for whom the cost of incarceration can be calculated.

Sec. 5. Section 903A.3, subsection 1, Code 1995, is amended to read as follows:

1. Upon finding that an inmate has violated an institutional rule, or has had an action or appeal dismissed under section 610A.2, the independent administrative law judge may order forfeiture of any or all good conduct time earned and not forfeited up to the date of the violation by the inmate and may order forfeiture of any or all good conduct time earned and not forfeited up to the date the action or appeal is dismissed, unless the court entered such an order under section 610A.3. The independent administrative law judge has discretion within the guidelines established pursuant to section 903A.4, to determine the amount of time that should be forfeited based upon the severity of the violation. Prior violations by the inmate may be considered by the administrative law judge in the decision.

Sec. 6. Section 904.702, Code 1995, is amended to read as follows:

~~904.702 DEDUCTION TO PAY COURT COSTS, INDUSTRIES PROGRAM COSTS, INCARCERATION COSTS, OR DEPENDENTS DEPOSITS SAVINGS FUND DEDUCTIONS FROM INMATE ACCOUNTS.~~

If allowances are paid pursuant to section 904.701, the director may deduct an amount established by the inmate's restitution plan of payment or an amount sufficient to pay all or part of the court costs taxed as a result of the inmate's commitment shall establish an inmate account, for deposit of those allowances and for deposit of moneys sent to the inmate from a source other than the department of corrections. The amount deducted shall be forwarded to the clerk of the district court or proper official. The director may deduct an amount, not to exceed ten percent of the amount of the allowance, unless the inmate requests a larger amount, to be deposited into the inmate savings fund established in as required under section 904.508, subsection 2. However, if the inmate's deposit in the inmate savings fund is sufficient to pay the amount due the inmate upon discharge, parole, or placement on work release pursuant to section 906.0, and the inmate has voluntarily withdrawn from the savings fund, the director shall not make further deposits from the inmate's allowances into the savings fund unless the inmate chooses to participate in the savings fund. The director shall deduct from the inmate account an amount established by the inmate's restitution plan of payment. The director shall also deduct from any remaining account balance an amount sufficient to pay all or part of any judgment against the inmate, including but not limited to judgments for taxes and child support, and court costs and fees assessed either as a result of the inmate's confinement or amounts required to be paid under section 610A.1. Written notice of the amount of the deduction shall be given to the inmate, who shall have five days after receipt of the notice to submit in writing any and all objections to the deduction to the director, who shall consider the objections prior to transmitting the deducted amount to the clerk of the district court. The director need give only one notice for each action or appeal under section 610A.1 for which periodic deductions are to be made. The director shall next deduct from any remaining account balance an amount sufficient to pay all or part of any costs assessed against the inmate for misconduct

or damage to the property of others. The director may deduct and disburse an amount sufficient for industries' programs to qualify under the eligibility requirements established in the Justice Assistance Act of 1984, Pub. L. No. 98-473, including an amount to pay all or part of the cost of the inmate's incarceration. The director may pay all or any part of remaining allowances paid pursuant to section 904.701 directly to a dependent of the inmate, or may deposit the allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

The director, the institutional division, and the department shall not be liable to any person for any damages caused by the withdrawal or failure to withdraw money or the payment or failure to make any payment under this section.

Approved May 4, 1995

CHAPTER 168
EXHIBITION OF PERSONS
S.F. 366

AN ACT relating to the exhibition of humans.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 727.10, Code 1995, is amended to read as follows:

727.10 ~~EXHIBITING DEFORMED OR ABNORMAL PERSONS.~~

Any A person who shall not exhibit, place on exhibition, or cause to be exhibited any deformed, maimed, idiotic or abnormal person or human monstrosity without the exhibited person's or human monstrosity's consent, and receive any fee or compensation therefor, permission of the person exhibited or the person's parent or guardian. A parent or guardian of an exhibited person shall not receive compensation from the exhibition. A person who violates this section commits a serious misdemeanor.

Approved May 4, 1995

CHAPTER 169
COLLECTION OF RESTITUTION AND OTHER COURT REVENUES
S.F. 403

AN ACT relating to collection of delinquent restitution payments and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.40, unnumbered paragraph 4, Code 1995, is amended to read as follows:

The county treasurer shall refuse to renew the registration of a vehicle registered to a person when notified that ~~there is a warrant outstanding for that person's arrest out of a~~