

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 466

BY SENATORS TRUMP AND WELD

[Introduced January 24, 2022; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §25-1A-9, relating to limitations on civil actions or appeals brought by inmates
 3 by prohibiting civil actions when an inmate has, on three or more prior occasions, had a
 4 civil action or appeal dismissed on the grounds that the action was frivolous, malicious, or
 5 for failure to state a claim upon which relief may be granted, with the exception that civil
 6 actions may be brought when the inmate alleges they are under imminent danger of
 7 serious physical injury; and providing that inmates who bring a civil action asserting they
 8 are under imminent danger of serious physical injury must state with particularity the basis
 9 of the assertion.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. WEST VIRGINIA PRISONER LITIGATION REFORM ACT.

§25-1A-9. Limitations on civil actions brought by prisoners.

1 (a) In no event shall an inmate bring a civil action or appeal a judgment in a civil action or
 2 proceeding if the inmate has within 10 years of the filing of the current action, on three or more
 3 occasions, while incarcerated or detained in any correctional facility, brought an action or appeal
 4 in any court of this state that was dismissed on the grounds that it was frivolous, malicious, or
 5 failed to state a claim upon which relief may be granted, unless the inmate is under imminent
 6 danger of serious physical injury.

7 (b) Any civil action asserting an inmate is under imminent danger of serious physical injury
 8 must state with particularity the factual basis of the assertion.

NOTE: The purpose of this bill is to prohibit any inmate housed in a correctional facility in West Virginia from bringing a civil action when that inmate has had three previous civil actions dismissed on grounds the action was frivolous, malicious, or failed to state a claim upon which relief may be granted. Inmates bringing civil actions alleging they are under imminent danger of serious physical harm are not prohibited from bringing suit under this statute but must state the allegations that they are under imminent danger of serious physical harm with particularity.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.