

**SUBSTITUTE FOR
SENATE BILL NO. 419**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9948) by adding chapter 55; and to repeal
acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 55 PRISONER LITIGATION REFORM

2 SEC. 5501. A CIVIL ACTION CONCERNING PRISON CONDITIONS
3 SHALL BE BROUGHT IN THE CIRCUIT COURT OR THE COURT OF CLAIMS, AS
4 APPROPRIATE.

5 SEC. 5503. (1) A PRISONER SHALL NOT FILE AN ACTION CONCERN-
6 ING PRISON CONDITIONS UNTIL THE PRISONER HAS EXHAUSTED ALL AVAIL-
7 ABLE ADMINISTRATIVE REMEDIES.

8 (2) THE COURT SHALL ON ITS OWN MOTION OR ON THE MOTION OF A
9 PARTY DISMISS AN ACTION CONCERNING PRISON CONDITIONS BROUGHT BY A
10 PRISONER AS TO 1 OR MORE DEFENDANTS IF THE COURT IS SATISFIED

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

2

1 THAT THE ACTION IS NONMERITORIOUS OR SEEKS MONETARY RELIEF FROM A
2 DEFENDANT WHO IS IMMUNE FROM THE REQUESTED RELIEF.

3 (3) THE COURT SHALL NOT APPOINT COUNSEL PAID FOR IN WHOLE OR
4 IN PART AT TAXPAYER EXPENSE TO A PRISONER FOR THE PURPOSE OF
5 FILING A CIVIL ACTION CONCERNING PRISON CONDITIONS.

6 SEC. 5505. (1) IF A PRISONER SUBMITS FOR FILING A CIVIL
7 ACTION AS PLAINTIFF IN A COURT OF THIS STATE OR SUBMITS FOR
8 FILING AN APPEAL IN A CIVIL ACTION IN A COURT OF THIS STATE AND
9 STATES THAT HE OR SHE IS INDIGENT AND THEREFORE IS UNABLE TO PAY
10 THE FILING FEE AND COSTS REQUIRED BY LAW, THE PRISONER MAKING THE
11 CLAIM OF INDIGENCY SHALL SUBMIT TO THE COURT A CERTIFIED COPY OF
12 HIS OR HER INSTITUTIONAL ACCOUNT, SHOWING THE CURRENT BALANCE IN
13 THE ACCOUNT AND A 12-MONTH HISTORY OF DEPOSITS AND WITHDRAWALS
14 FOR THE ACCOUNT. THE COURT THEN SHALL ORDER THE PRISONER TO PAY
15 FEES AND COSTS AS PROVIDED IN THIS SECTION. THE COURT SHALL SUS-
16 PEND THE FILING OF THE CIVIL ACTION OR APPEAL UNTIL THE FILING
17 FEE OR INITIAL PARTIAL FILING FEE ORDERED UNDER SUBSECTION (2) OR
18 (3) IS RECEIVED BY THE COURT. IF THE COURT ORDERS THAT A PRIS-
19 ONER PAY A FILING FEE OR PARTIAL FILING FEE, ALL DOCUMENTS SUB-
20 MITTED BY THE PRISONER THAT RELATE TO THAT ACTION OR APPEAL SHALL
21 BE RETURNED TO THE PRISONER BY THE COURT ALONG WITH 2 CERTIFIED
22 COPIES OF THE COURT ORDER. AN ADDITIONAL CERTIFIED COPY OF THE
23 COURT ORDER SHALL BE SENT TO THE PRISON WHERE THE PRISONER IS
24 HOUSED. THE PRISONER THEN SHALL, WITHIN 21 DAYS AFTER THE DATE
25 OF THE COURT ORDER, RESUBMIT TO THE COURT ALL DOCUMENTS RELATING
26 TO THE ACTION OR APPEAL, ACCOMPANIED BY THE REQUIRED FILING FEE
27 OR PARTIAL FILING FEE AND 1 CERTIFIED COPY OF THE COURT ORDER.

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

3

1 IF THE FILING FEE OR INITIAL PARTIAL FILING FEE IS NOT RECEIVED
2 WITHIN 21 DAYS AFTER THE DAY ON WHICH IT WAS ORDERED, THE COURT
3 SHALL NOT FILE THAT ACTION OR APPEAL, AND SHALL RETURN TO THE
4 PRISONER ALL DOCUMENTS SUBMITTED BY THE PLAINTIFF THAT RELATE TO
5 THAT ACTION OR APPEAL.

6 (2) IF, UPON COMMENCEMENT OF THE CIVIL ACTION OR THE FILING
7 OF THE APPEAL, THE BALANCE IN THE PRISONER'S INSTITUTIONAL
8 ACCOUNT EQUALS OR EXCEEDS THE FULL AMOUNT OF THE FILING FEE
9 REQUIRED BY LAW, THE COURT SHALL ORDER THE PRISONER TO PAY THAT
10 AMOUNT.

11 (3) IF, UPON COMMENCEMENT OF THE CIVIL ACTION OR THE FILING
12 OF THE APPEAL, THE BALANCE IN THE PRISONER'S INSTITUTIONAL
13 ACCOUNT IS LESS THAN THE FULL AMOUNT OF THE FILING FEE REQUIRED
14 BY LAW, THE COURT SHALL REQUIRE THE PRISONER TO PAY AN INITIAL
15 PARTIAL FILING FEE IN AN AMOUNT EQUAL TO 50% OF THE GREATER OF
16 THE FOLLOWING:

17 (A) THE AVERAGE MONTHLY DEPOSITS TO THE PRISONER'S INSTITU-
18 TIONAL ACCOUNT FOR THE 12 MONTHS PRECEDING THE DATE ON WHICH THE
19 CIVIL ACTION IS COMMENCED OR THE APPEAL IS FILED.

20 (B) THE AVERAGE MONTHLY BALANCE IN THE PRISONER'S INSTITU-
21 TIONAL ACCOUNT FOR THE 12 MONTHS PRECEDING THE DATE ON WHICH THE
22 CIVIL ACTION IS COMMENCED OR THE APPEAL IS FILED.

23 (4) IN DETERMINING THE BALANCE IN A PRISONER'S INSTITUTIONAL
24 ACCOUNT FOR PURPOSES OF SUBSECTION (2) OR (3), THE COURT SHALL
25 DISREGARD AMOUNTS IN THE INSTITUTIONAL ACCOUNT THAT ARE REQUIRED
26 BY LAW OR BY ANOTHER COURT ORDER TO BE PAID FOR ANY OTHER
27 PURPOSES.

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

4

1 (5) IN ADDITION TO AN INITIAL PARTIAL FILING FEE UNDER
2 SUBSECTION (3), THE COURT SHALL ORDER THE PRISONER TO MAKE
3 MONTHLY PAYMENTS IN AN AMOUNT EQUAL TO 50% OF THE DEPOSITS MADE
4 TO THE ACCOUNT. PAYMENTS UNDER THIS SUBSECTION SHALL CONTINUE
5 UNTIL THE FULL AMOUNT OF THE FILING FEE IS PAID. IF COSTS ARE
6 ASSESSED AGAINST A PRISONER, AND IF THE BALANCE OF THE PRISONER'S
7 INSTITUTIONAL ACCOUNT IS NOT SUFFICIENT TO PAY THE FULL AMOUNT OF
8 THE COSTS ASSESSED, THE COURT SHALL ORDER THE PRISONER TO MAKE
9 PAYMENTS IN THE SAME MANNER REQUIRED IN THIS SECTION FOR THE PAY-
10 MENT OF FILING FEES, AND THE FULL AMOUNT OF THE COSTS SHALL BE
11 COLLECTED AND PAID IN THE MANNER PROVIDED IN THIS SECTION.

12 (6) IF A PRISONER IS ORDERED BY A COURT TO MAKE MONTHLY PAY-
13 MENTS FOR THE PURPOSE OF PAYING THE BALANCE OF FILING FEES OR
14 COSTS UNDER THIS SECTION, THE AGENCY HAVING CUSTODY OF THE PRIS-
15 ONER SHALL REMOVE THOSE AMOUNTS FROM THE INSTITUTIONAL ACCOUNT OF
16 THE PRISONER SUBJECT TO THE ORDER AND, WHEN AN AMOUNT EQUAL TO
17 THE BALANCE OF THE FILING FEES OR COSTS DUE IS REMOVED, REMIT
18 THAT AMOUNT AS DIRECTED IN THE ORDER.

19 (7) THE TOTAL AMOUNT COLLECTED FROM A PRISONER UNDER SUBSEC-
20 TIONS (3) TO (5) SHALL NOT EXCEED THE FULL AMOUNT OF THE FILING
21 FEE AND COSTS REQUIRED BY LAW.

22 (8) FOR PURPOSES OF THIS SECTION, THE FACT OF A PRISONER'S
23 INCARCERATION CANNOT BE THE SOLE BASIS FOR A DETERMINATION OF
24 INDIGENCY. HOWEVER, THIS SECTION SHALL NOT PROHIBIT A PRISONER
25 FROM COMMENCING A CIVIL ACTION OR FILING AN APPEAL IN A CIVIL
26 ACTION IF THE PRISONER HAS NO ASSETS AND NO MEANS BY WHICH TO PAY
27 THE INITIAL PARTIAL FILING FEE. IF THE COURT, PURSUANT TO COURT

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

5

1 RULE, WAIVES OR SUSPENDS THE PAYMENT OF FEES AND COSTS IN AN
2 ACTION DESCRIBED IN SUBSECTION (1) BECAUSE THE PRISONER HAS NO
3 ASSETS AND NO MEANS BY WHICH TO PAY THE INITIAL PARTIAL FILING
4 FEE, THE COURT SHALL ORDER THE FEES AND COSTS TO BE PAID BY THE
5 PRISONER IN THE MANNER PROVIDED IN THIS SECTION WHEN THE REASON
6 FOR THE WAIVER OR SUSPENSION NO LONGER EXISTS.

7 (9) A PRISONER WHO HAS FAILED TO PAY OUTSTANDING FEES AND
8 COSTS AS REQUIRED UNDER THIS SECTION SHALL NOT COMMENCE A NEW
9 CIVIL ACTION OR APPEAL UNTIL THE OUTSTANDING FEES AND COSTS HAVE
10 BEEN PAID.

11 (10) THE COURT SHALL DISMISS A CASE AT ANY TIME, REGARDLESS
12 OF ANY FILING FEE THAT MAY HAVE BEEN PAID, IF THE COURT FINDS ANY
13 OF THE FOLLOWING:

14 (A) A PRISONER'S ALLEGATION OF INDIGENCY IS UNTRUE.

15 (B) THE ACTION OR APPEAL IS NONMERITORIOUS.

16 (C) THE ACTION OR APPEAL SEEKS MONETARY RELIEF AGAINST A
17 DEFENDANT WHO IS IMMUNE FROM THE REQUESTED RELIEF.

18 (D) A PRISONER FAILS TO COMPLY WITH SUBSECTION (9).

19 SEC. 5507. (1) A PRISONER SHALL NOT BRING A CIVIL ACTION
20 CONCERNING PRISON CONDITIONS OR APPEAL A JUDGMENT IN A CIVIL
21 ACTION CONCERNING PRISON CONDITIONS UNDER SECTION 5505 OR BE
22 ALLOWED LEGAL REPRESENTATION BY AN ATTORNEY WHO IS DIRECTLY OR
23 INDIRECTLY COMPENSATED FOR HIS OR HER SERVICES IN WHOLE OR IN
24 PART BY STATE FUNDS IF THE PRISONER HAS, ON 3 OR MORE PRIOR OCCA-
25 SIONS, WHILE INCARCERATED OR DETAINED IN ANY PRISON, BROUGHT AN
26 ACTION OR APPEAL IN A COURT OF THIS STATE THAT WAS DISMISSED ON
27 THE GROUNDS THAT IT WAS NONMERITORIOUS, UNLESS THE PRISONER HAS

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

6

1 SUFFERED SERIOUS PHYSICAL INJURY OR IS UNDER IMMINENT DANGER OF
2 SUFFERING SERIOUS PHYSICAL INJURY OR HAS SUFFERED OR IS UNDER
3 IMMINENT DANGER OF SUFFERING CONDUCT PROHIBITED UNDER SECTION
4 520B, 520C, 520D, 520E, OR 520G OF THE MICHIGAN PENAL CODE, 1931
5 PA 328, MCL 750.520B, 750.520C, 750.520D, 750.520E, AND
6 750.520G.

7 (2) A PRISONER WHO BRINGS A CIVIL ACTION OR APPEALS A JUDG-
8 MENT CONCERNING PRISON CONDITIONS SHALL, UPON COMMENCEMENT OF THE
9 ACTION OR INITIATION OF THE APPEAL, DISCLOSE THE NUMBER OF CIVIL
10 ACTIONS AND APPEALS THAT THE PRISONER HAS PREVIOUSLY INITIATED.

11 (3) THE COURT SHALL DISMISS A CIVIL ACTION OR APPEAL AT ANY
12 TIME, REGARDLESS OF ANY FILING FEE THAT MAY HAVE BEEN PAID, IF
13 THE COURT FINDS ANY OF THE FOLLOWING:

14 (A) THE PRISONER'S CLAIM OF INJURY OR OF IMMINENT DANGER
15 UNDER SUBSECTION (1) IS FALSE.

16 (B) THE PRISONER FAILS TO COMPLY WITH THE DISCLOSURE
17 REQUIREMENTS OF SUBSECTION (2).

18 SEC. 5509. (1) THE COURT SHALL REVIEW AS SOON AS PRACTICA-
19 BLE A COMPLAINT IN A CIVIL ACTION IN WHICH A PRISONER SEEKS
20 REDRESS FROM A GOVERNMENTAL ENTITY OR OFFICER OR EMPLOYEE OF A
21 GOVERNMENTAL ENTITY.

22 (2) ON REVIEW, THE COURT SHALL DISMISS THE COMPLAINT OR A
23 PORTION OF THE COMPLAINT IF THE COURT FINDS EITHER OF THE
24 FOLLOWING:

25 (A) THE COMPLAINT OR A PORTION OF THE COMPLAINT IS
26 NONMERITORIOUS.

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

7

1 (B) THE COMPLAINT SEEKS MONETARY RELIEF FROM A DEFENDANT WHO
2 IS IMMUNE FROM THE REQUESTED RELIEF.

3 (3) A DEFENDANT MAY WAIVE THE RIGHT TO REPLY TO AN ACTION
4 BROUGHT BY A PRISONER. NOTWITHSTANDING ANY OTHER LAW OR RULE OF
5 PROCEDURE, A WAIVER UNDER THIS SUBSECTION DOES NOT CONSTITUTE AN
6 ADMISSION OF THE ALLEGATIONS CONTAINED IN THE COMPLAINT. RELIEF
7 SHALL NOT BE GRANTED TO THE PLAINTIFF UNLESS A REPLY HAS BEEN
8 FILED.

9 (4) THE COURT MAY REQUIRE A DEFENDANT TO REPLY TO A COM-
10 PLAIN IN A CIVIL ACTION CONCERNING PRISON CONDITIONS IF IT FINDS
11 THAT THE PLAINTIFF IS LIKELY TO PREVAIL ON THE MERITS.

12 (5) IF, AFTER REVIEWING THE COMPLAINT, THE COURT DOES NOT
13 DISMISS THE COMPLAINT UNDER THIS SECTION, THE COURT SHALL INDI-
14 CATE IN THE RECORD THE REASONS FOR THAT DECISION.

15 SEC. 5511. (1) A PERSON SHALL NOT BRING AN ACTION AGAINST
16 THIS STATE OR A SUBDIVISION OF THIS STATE, OR AN OFFICIAL,
17 EMPLOYEE, OR AGENT OF THIS STATE OR A SUBDIVISION OF THIS STATE,
18 FOR MENTAL OR EMOTIONAL INJURY SUFFERED WHILE IN CUSTODY WITHOUT
19 A SHOWING OF PHYSICAL INJURY ARISING OUT OF THE INCIDENT GIVING
20 RISE TO THE MENTAL OR EMOTIONAL INJURY.

21 (2) SUBJECT TO SECTION 220H OF 1953 PA 232, MCL 791.220H,
22 AND THE CRIME VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.751 TO
23 780.834, ANY DAMAGES AWARDED TO A PRISONER IN CONNECTION WITH A
24 CIVIL ACTION BROUGHT AGAINST A PRISON OR AGAINST AN OFFICIAL,
25 EMPLOYEE, OR AGENT OF A PRISON SHALL BE PAID DIRECTLY TO SATISFY
26 ANY OUTSTANDING RESTITUTION ORDERS PENDING AGAINST THE PRISONER,
27 INCLUDING, BUT NOT LIMITED TO, RESTITUTION ORDERS ISSUED UNDER

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

8

1 THE STATE CORRECTIONAL FACILITY REIMBURSEMENT ACT, 1935 PA 253,
2 MCL 800.401 TO 800.406, THE PRISONER REIMBURSEMENT TO THE COUNTY
3 ACT, 1984 PA 118, MCL 801.81 TO 801.93, 1982 PA 14, MCL 801.301,
4 AND THE CRIME VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.751 TO
5 780.834, ANY OUTSTANDING COSTS AND FEES, AND ANY OTHER DEBT OR
6 ASSESSMENT OWED TO THE JURISDICTION HOUSING THE PRISONER. THE
7 REMAINDER OF THE AWARD AFTER FULL PAYMENT OF ALL PENDING RESTITU-
8 TION ORDERS, COSTS, AND FEES SHALL BE FORWARDED TO THE PRISONER.
9 (3) BEFORE PAYMENT OF ANY DAMAGES AWARDED TO A PRISONER IN
10 CONNECTION WITH A CIVIL ACTION DESCRIBED IN SUBSECTION (2), THE
11 COURT AWARDING THE DAMAGES SHALL MAKE REASONABLE EFFORTS TO
12 NOTIFY THE VICTIMS OF THE CRIME FOR WHICH THE PRISONER WAS CON-
13 VICTED AND INCARCERATED CONCERNING THE PENDING PAYMENT OF
14 DAMAGES.

15 SEC. 5513. IN A CIVIL ACTION BROUGHT BY A PRISONER, THE
16 COURT MAY ORDER THE REVOCATION OF A PRISONER'S GOOD TIME CREDIT,
17 DISCIPLINARY CREDIT, OR BOTH, IF, ON ITS OWN MOTION OR THE MOTION
18 OF ANY PARTY, THE COURT FINDS THAT THE PRISONER FILED AN ACTION
19 PROHIBITED UNDER SECTION 5503 OR 5505 AND 1 OF THE FOLLOWING
20 APPLIES:

21 (A) THE CLAIM WAS FILED FOR A MALICIOUS PURPOSE.

22 (B) THE CLAIM WAS FILED SOLELY TO HARASS THE PARTY AGAINST
23 WHOM IT WAS FILED.

24 (C) THE PRISONER TESTIFIED FALSELY OR OTHERWISE KNOWINGLY
25 PRESENTS FALSE EVIDENCE OR INFORMATION TO THE COURT.

26 SEC. 5515. (1) TO THE EXTENT PRACTICABLE, IN AN ACTION
27 BROUGHT BY A PRISONER, PRETRIAL PROCEEDINGS IN WHICH THE

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

9

1 PRISONER'S PARTICIPATION IS REQUIRED OR PERMITTED SHALL BE
2 CONDUCTED BY TELEPHONE, VIDEO CONFERENCE, OR OTHER TELECOMMUNICA-
3 TIONS TECHNOLOGY WITHOUT REMOVING THE PRISONER FROM THE PRISON IN
4 WHICH THE PRISONER IS CONFINED.

5 (2) SUBJECT TO THE AGREEMENT OF THE OFFICIAL OF THE STATE OR
6 LOCAL UNIT OF GOVERNMENT WITH CUSTODY OVER THE PRISONER, HEARINGS
7 MAY BE CONDUCTED AT THE PRISON IN WHICH THE PRISONER IS
8 CONFINED. TO THE EXTENT PRACTICABLE, THE COURT SHALL ALLOW COUN-
9 SEL TO PARTICIPATE BY TELEPHONE, VIDEO CONFERENCE, OR OTHER COM-
10 MUNICATIONS TECHNOLOGY IN A HEARING HELD AT THE PRISON.

11 SEC. 5517. (1) THE COURT SHALL NOT GRANT OR APPROVE ANY
12 PROSPECTIVE RELIEF IN A CIVIL ACTION CONCERNING PRISON CONDITIONS
13 UNLESS THE COURT FINDS THAT THE RELIEF IS NARROWLY DRAWN, EXTENDS
14 NO FURTHER THAN NECESSARY TO CORRECT THE VIOLATION OF THE RIGHT,
15 AND IS THE LEAST INTRUSIVE MEANS NECESSARY TO CORRECT THE VIOLA-
16 TION OF THE RIGHT. THE COURT SHALL GIVE SUBSTANTIAL WEIGHT TO
17 ANY ADVERSE EFFECT ON PUBLIC SAFETY OR THE OPERATION OF THE CRIM-
18 INAL JUSTICE SYSTEM CAUSED BY THE RELIEF.

19 (2) A COURT SHALL NOT ORDER PROSPECTIVE RELIEF THAT REQUIRES
20 OR PERMITS A GOVERNMENT OFFICIAL TO EXCEED HIS OR HER AUTHORITY
21 UNDER STATE OR LOCAL LAW OR OTHERWISE VIOLATES LOCAL LAW, UNLESS
22 ALL OF THE FOLLOWING CONDITIONS EXIST:

23 (A) STATE LAW PERMITS THE RELIEF TO BE ORDERED IN VIOLATION
24 OF LOCAL LAW.

25 (B) THE RELIEF IS NECESSARY TO CORRECT THE VIOLATION OF A
26 RIGHT UNDER STATE OR LOCAL LAW.

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

10

1 (C) NO OTHER RELIEF WILL CORRECT THE VIOLATION OF THE
2 RIGHT.

3 (3) THIS SECTION DOES NOT AUTHORIZE A COURT, IN EXERCISING
4 ITS REMEDIAL POWERS, TO ORDER THE CONSTRUCTION OF PRISONS OR THE
5 RAISING OF TAXES, OR TO REPEAL OR DETRACT FROM OTHERWISE APPLICA-
6 BLE LIMITATIONS ON THE REMEDIAL POWERS OF THE COURT.

7 SEC. 5519. THE COURT MAY ENTER A TEMPORARY RESTRAINING
8 ORDER OR AN ORDER FOR PRELIMINARY INJUNCTIVE RELIEF IN A CIVIL
9 ACTION CONCERNING PRISON CONDITIONS TO THE EXTENT OTHERWISE
10 AUTHORIZED BY LAW. PRELIMINARY INJUNCTIVE RELIEF SHALL BE NAR-
11 ROWLY DRAWN, EXTEND NO FURTHER THAN NECESSARY TO CORRECT THE HARM
12 THE COURT FINDS REQUIRES PRELIMINARY RELIEF, AND BE THE LEAST
13 INTRUSIVE MEANS NECESSARY TO CORRECT THAT HARM. THE COURT SHALL
14 GIVE SUBSTANTIAL WEIGHT TO ANY ADVERSE EFFECT ON PUBLIC SAFETY OR
15 THE OPERATION OF THE CRIMINAL JUSTICE SYSTEM CAUSED BY THE PRE-
16 LIMINARY RELIEF IN TAILORING THE PRELIMINARY RELIEF. PRELIMINARY
17 INJUNCTIVE RELIEF SHALL AUTOMATICALLY EXPIRE 90 DAYS AFTER THE
18 PRELIMINARY INJUNCTIVE ORDER IS ENTERED, UNLESS THE COURT MAKES
19 THE FINDINGS REQUIRED UNDER SECTION 5517(1) FOR THE ENTRY OF PRO-
20 SPECTIVE RELIEF AND MAKES THE ORDER FINAL BEFORE THE EXPIRATION
21 OF THE 90-DAY PERIOD.

22 SEC. 5521. (1) EXCEPT AS PROVIDED IN SECTIONS 5519 AND
23 5523, PROSPECTIVE RELIEF ORDERED IN A CIVIL ACTION CONCERNING
24 PRISON CONDITIONS SHALL BE TERMINABLE UPON THE MOTION OF A PARTY
25 OR INTERVENOR AS FOLLOWS:

26 (A) TWO YEARS AFTER THE DATE THE COURT GRANTED OR APPROVED
27 THE PROSPECTIVE RELIEF.

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

11

1 (B) ONE YEAR AFTER THE DATE THE COURT ENTERED AN ORDER
2 DENYING TERMINATION OF PROSPECTIVE RELIEF.

3 (C) IN THE CASE OF AN ORDER ISSUED ON OR BEFORE THE DATE THE
4 AMENDATORY ACT THAT ADDED THIS CHAPTER IS ENACTED INTO LAW, 2
5 YEARS AFTER THAT DATE OF ENACTMENT.

6 (2) THIS SECTION DOES NOT PREVENT THE PARTIES FROM AGREEING
7 TO TERMINATE OR MODIFY RELIEF BEFORE THE RELIEF IS TERMINATED
8 UNDER SUBSECTION (1).

9 SEC. 5523. (1) A DEFENDANT OR INTERVENOR IS ENTITLED TO THE
10 IMMEDIATE TERMINATION OF A PROSPECTIVE RELIEF ORDERED IN A CIVIL
11 ACTION CONCERNING PRISON CONDITIONS IF THE RELIEF WAS ORDERED IN
12 THE ABSENCE OF A FINDING BY THE COURT THAT THE RELIEF IS NARROWLY
13 DRAWN, EXTENDS NO FURTHER THAN NECESSARY TO CORRECT THE VIOLATION
14 OF THE STATE RIGHT, AND IS THE LEAST INTRUSIVE MEANS NECESSARY TO
15 CORRECT THE VIOLATION OF A RIGHT UNDER STATE OR LOCAL LAW.

16 (2) PROSPECTIVE RELIEF SHALL NOT TERMINATE IF THE COURT
17 MAKES WRITTEN FINDINGS BASED ON THE RECORD THAT PROSPECTIVE
18 RELIEF REMAINS NECESSARY TO CORRECT A CURRENT OR ONGOING VIOLA-
19 TION OF THE RIGHT, EXTENDS NO FURTHER THAN NECESSARY TO CORRECT
20 THE VIOLATION OF THE RIGHT, AND IS NARROWLY DRAWN AND THE LEAST
21 INTRUSIVE MEANS TO CORRECT THE VIOLATION.

22 (3) A PARTY SHALL NOT SEEK MODIFICATION OR TERMINATION
23 BEFORE THE RELIEF IS TERMINABLE UNDER SECTION 5521 TO THE EXTENT
24 THAT MODIFICATION OR TERMINATION WOULD OTHERWISE BE LEGALLY
25 PERMISSIBLE.

26 SEC. 5525. (1) IN A CIVIL ACTION CONCERNING PRISON
27 CONDITIONS, THE COURT SHALL NOT ENTER OR APPROVE A CONSENT DECREE

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

12

1 UNLESS IT COMPLIES WITH THE LIMITATIONS ON RELIEF SET FORTH IN
2 SECTIONS 5517 AND 5519.

3 SEC. 5527. (1) THE COURT SHALL PROMPTLY RULE ON A MOTION TO
4 MODIFY OR TERMINATE PROSPECTIVE RELIEF IN A CIVIL ACTION CONCERN-
5 ING PRISON CONDITIONS.

6 (2) ANY PROSPECTIVE RELIEF SUBJECT TO A PENDING MOTION SHALL
7 BE AUTOMATICALLY STAYED DURING 1 OF THE FOLLOWING PERIODS:

8 (A) BEGINNING ON THE THIRTIETH DAY AFTER THE MOTION IS
9 FILED, IN THE CASE OF A MOTION MADE UNDER SECTION 5521 OR 5523,
10 AND ENDING ON THE DATE THE COURT ENTERS A FINAL ORDER RULING ON
11 THE MOTION.

12 (B) BEGINNING ON THE ONE HUNDRED EIGHTIETH DAY AFTER THE
13 MOTION IS FILED, IN THE CASE OF A MOTION MADE UNDER ANY OTHER
14 LAW, AND ENDING ON THE DATE THE COURT ENTERS A FINAL ORDER RULING
15 ON THE MOTION.

16 (3) THE COURT MAY POSTPONE THE EFFECTIVE DATE OF AN AUTO-
17 MATIC STAY SPECIFIED IN SUBSECTION (2) FOR GOOD CAUSE FOR NOT
18 MORE THAN 60 DAYS. AS USED IN THIS SUBSECTION, "GOOD CAUSE" DOES
19 NOT INCLUDE THE CONGESTION OF THE COURT'S CALENDAR.

20 (4) AN ORDER STAYING, SUSPENDING, DELAYING, OR BARRING THE
21 OPERATION OF AN AUTOMATIC STAY DESCRIBED IN SUBSECTION (2), OTHER
22 THAN AN ORDER TO POSTPONE THE EFFECTIVE DATE OF THE AUTOMATIC
23 STAY UNDER SUBSECTION (3), SHALL BE TREATED AS AN ORDER DENYING
24 THE DISSOLUTION OF OR MODIFICATION OF AN INJUNCTION AND MAY BE
25 APPEALED AS OF RIGHT REGARDLESS OF HOW THE ORDER IS STYLED OR
26 WHETHER THE ORDER IS TERMED A PRELIMINARY OR FINAL RULING.

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

13

1 SEC. 5529. (1) THE COURT MAY APPOINT A SPECIAL MASTER WHO
2 IS DISINTERESTED AND OBJECTIVE AND WHO WILL GIVE DUE REGARD TO
3 THE PUBLIC SAFETY, TO CONDUCT HEARINGS ON THE RECORD AND PREPARE
4 PROPOSED FINDINGS OF FACT IN A CIVIL ACTION CONCERNING PRISON
5 CONDITIONS. THE COURT SHALL APPOINT A SPECIAL MASTER UNDER THIS
6 SUBSECTION DURING THE REMEDIAL PHASE OF THE ACTION ONLY UPON A
7 FINDING THAT THE REMEDIAL PHASE WILL BE SUFFICIENTLY COMPLEX TO
8 WARRANT THE APPOINTMENT.

9 (2) IF THE COURT DETERMINES THAT THE APPOINTMENT OF A SPE-
10 CIAL MASTER IS NECESSARY UNDER SUBSECTION (1), THE COURT SHALL
11 REQUEST THAT THE DEFENDANT AND THE PLAINTIFF EACH SUBMIT A LIST
12 OF NOT MORE THAN 5 PERSONS TO SERVE AS A SPECIAL MASTER. EACH
13 PARTY SHALL HAVE THE OPPORTUNITY TO REMOVE UP TO 3 PERSONS FROM
14 THE OPPOSING PARTY'S LIST. THE COURT SHALL THEN SELECT THE
15 MASTER FROM THE PERSONS REMAINING ON THE LIST.

16 (3) A PARTY MAY FILE AN INTERLOCUTORY APPEAL OF THE COURT'S
17 SELECTION OF THE SPECIAL MASTER UNDER THIS SECTION.

18 (4) A SPECIAL MASTER UNDER THIS SECTION SHALL BE COMPENSATED
19 FOR HIS OR HER ACTUAL AND NECESSARY COSTS BASED ON AN HOURLY RATE
20 NOT GREATER THAN THE HOURLY RATE ESTABLISHED FOR PAYMENT OF
21 COURT-APPOINTED COUNSEL. THE COMPENSATION SHALL BE PAID WITH
22 FUNDS APPROPRIATED FOR PAYMENT OF COURT-APPOINTED COUNSEL.

23 (5) THE COURT SHALL REVIEW THE APPOINTMENT OF THE SPECIAL
24 MASTER EVERY 6 MONTHS TO DETERMINE WHETHER THE SERVICES OF THE
25 SPECIAL MASTER CONTINUE TO BE REQUIRED UNDER SUBSECTION (1).
26 HOWEVER, THE APPOINTMENT OF A SPECIAL MASTER SHALL NOT EXTEND
27 BEYOND THE TERMINATION OF THE RELIEF.

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

14

1 (6) A SPECIAL MASTER APPOINTED UNDER THIS SECTION HAS THE
2 FOLLOWING AUTHORITY AND LIMITATIONS:

3 (A) TO CONDUCT HEARINGS AND PREPARE PROPOSED FINDINGS OF
4 FACT, WHICH SHALL BE MADE ON THE RECORD, IF AUTHORIZED BY THE
5 COURT TO DO SO.

6 (B) TO MAKE NO EX PARTE FINDINGS OR COMMUNICATIONS.

7 (C) TO ASSIST IN THE DEVELOPMENT OF REMEDIAL PLANS, IF
8 AUTHORIZED BY THE COURT TO DO SO.

9 (D) TO BE RELIEVED OF THE APPOINTMENT UPON THE TERMINATION
10 OF RELIEF, BUT MAY BE REMOVED BY THE COURT AT ANY TIME.

11 SEC. 5531. (1) THE STATE COURT ADMINISTRATIVE OFFICE SHALL
12 COMPILE AND MAINTAIN A LIST OF THE CIVIL ACTIONS CONCERNING
13 PRISON CONDITIONS BROUGHT BY A PRISONER THAT ARE DISMISSED AS
14 NONMERITORIOUS. THE LIST SHALL INCLUDE AN ACCOUNT OF THE AMOUNT
15 OF UNPAID FEES AND COSTS ASSOCIATED WITH EACH DISMISSED CASE.
16 THE LIST SHALL BE MADE AVAILABLE TO THE COURTS OF THIS STATE FOR
17 THE PURPOSE OF ASCERTAINING THE EXISTENCE AND NUMBER OF CIVIL
18 ACTIONS CONCERNING PRISON CONDITIONS FILED BY EACH PRISONER, AND
19 ANY ASSOCIATED UNPAID FEES AND COSTS, FOR THE PURPOSES DESCRIBED
20 IN THIS CHAPTER.

21 (2) A COURT IN WHICH A CIVIL ACTION CONCERNING PRISON CONDI-
22 TIONS IS BROUGHT SHALL REFER TO THE LIST DESCRIBED IN SUBSECTION
23 (1) TO DETERMINE THE NUMBER AND EXISTENCE OF CIVIL ACTIONS CON-
24 CERNING PRISON CONDITIONS PREVIOUSLY FILED BY A PRISONER AND ANY
25 ASSOCIATED UNPAID FEES AND COSTS.

26 SEC. 5533. AS USED IN THIS CHAPTER:

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

15

1 (A) "CIVIL ACTION CONCERNING PRISON CONDITIONS" MEANS ANY
2 CIVIL PROCEEDING SEEKING DAMAGES OR EQUITABLE RELIEF ARISING WITH
3 RESPECT TO ANY CONDITIONS OF CONFINEMENT OR THE EFFECTS OF AN ACT
4 OR OMISSION OF GOVERNMENT OFFICIALS, EMPLOYEES, OR AGENTS IN THE
5 PERFORMANCE OF THEIR DUTIES, BUT DOES NOT INCLUDE PROCEEDINGS
6 CHALLENGING THE FACT OR DURATION OF CONFINEMENT IN PRISON, OR
7 PAROLE APPEALS OR MAJOR MISCONDUCT APPEALS UNDER SECTION 34 OR
8 SECTION 55 OF 1953 PA 232, MCL 791.234 AND 791.255.

9 (B) "CONSENT DECREE" MEANS ANY RELIEF ENTERED BY THE COURT
10 THAT IS BASED IN WHOLE OR IN PART UPON THE CONSENT OR ACQUIES-
11 CENCE OF THE PARTIES BUT DOES NOT INCLUDE PRIVATE SETTLEMENTS.

12 (C) "NONMERITORIOUS" MEANS FRIVOLOUS AS THAT TERM IS DEFINED
13 IN SECTION 2591 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA
14 236, MCL 600.2591.

15 (D) "PRISON" MEANS A FACILITY THAT INCARCERATES OR DETAINS
16 JUVENILES OR ADULTS ACCUSED OF, CONVICTED OF, SENTENCED FOR, OR
17 ADJUDICATED DELINQUENT FOR, VIOLATIONS OF STATE OR LOCAL LAW.

18 (E) "PRISONER" MEANS A PERSON SUBJECT TO INCARCERATION,
19 DETENTION, OR ADMISSION TO A PRISON WHO IS ACCUSED OF, CONVICTED
20 OF, SENTENCED FOR, OR ADJUDICATED DELINQUENT FOR VIOLATIONS OF
21 STATE OR LOCAL LAW OR THE TERMS AND CONDITIONS OF PAROLE, PROBA-
22 TION, PRETRIAL RELEASE, OR A DIVERSIONARY PROGRAM.

23 (F) "PRIVATE SETTLEMENT AGREEMENT" MEANS AN AGREEMENT
24 ENTERED INTO AMONG THE PARTIES THAT IS NOT SUBJECT TO JUDICIAL
25 ENFORCEMENT OTHER THAN THE REINSTATEMENT OF THE CIVIL PROCEEDING
26 THAT THE AGREEMENT SETTLED.

SB 419, As Passed Senate, April 29, 1999

Senate Bill No. 419

16

1 (G) "PROSPECTIVE RELIEF" MEANS ALL RELIEF OTHER THAN
2 MONETARY DAMAGES.

3 (H) "RELIEF" MEANS ALL RELIEF IN ANY FORM THAT MAY BE
4 GRANTED OR APPROVED BY THE COURT, AND INCLUDES CONSENT DECREES
5 BUT DOES NOT INCLUDE PRIVATE SETTLEMENT AGREEMENTS.

6 (I) "SPECIAL MASTER" MEANS A PERSON APPOINTED BY A COURT
7 UNDER SECTION 5529.

8 Enacting section 1. Section 2963 of the revised judicature
9 act of 1961, 1961 PA 236, MCL 600.2963, is repealed.

10 Enacting section 2. This amendatory act does not take
11 effect unless all of the following bills of the 90th Legislature
12 are enacted into law:

13 (a) Senate Bill No. 406.

14 (b) Senate Bill No. 500.