

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

May 14, 1999

LB 185, 865

support the Brashear amendment to remove that provision and it did catch my eye, as Senator Brashear would know, because I do have LB 185 sitting in Judiciary, which I've introduced in previous years and again this year, this year at the request of the Governor, which, among other things, attempts to require inmates to pay court filing fees when they have money available in their account if they're going to file lawsuits. That's a provision that's presently included in the Federal Prison Litigation Act. It also has a provision that would preclude inmates from filing civil actions, civil actions if the inmate has, on three or more prior occasions while in prison, had an action dismissed as frivolous, malicious, or failing to state a claim of action unless the inmate is in danger of physical harm. Similar provision exists in the federal act. It also requires the courts to dismiss actions which are filed in forma pauperis without any fee if the court finds that the allegation of poverty is untrue or, again, that the action is frivolous, malicious, or fails to state a cause of action. A similar provision exists in the federal act. Now let me tell you why I'm so concerned about this, and I have a lot to learn about it and that's why I'm not going to push it. I just want to talk about it. There's a lot that I need to learn. In 1991, there were 87 state filings by inmate civil actions; in 1992, there were 108; '93 there were 182; in '94 there were 230; in '95, 219; '96, 263; and in '97, 346; from 87 in '91 to 346 in '97. Now, when these things are filed many times this requires witnesses from the prison system to appear in court, whether it be the warden, whether it be a guard, whether it be other personnel. During that same time and while the federal act was pending, the federal filings declined. In '90...in '95, when we had 219 state filings, there were 68 federal filings. In '96, after the federal act, we had 263 state filings and only 22 federal filings. In '97, we were down to 17 federal filings. We're up to 346 state filings. Now, maybe all these are justified. If they are, then we have some problems out there that we need to address, because I don't think inmates have just gotten the courage to file civil litigation in the last two or three years. Either the problems are numerous and we need to do something, or we've got some...we've got some people with time on their hands that are taking advantage of the system and costing us a lot of money and time. And I would like to get to the bottom of it, and I would like to have this problem