

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: S1/28/19 H2/6/19 H2/19/19*
92nd General Assembly **A Bill**
Regular Session, 2019

SENATE BILL 116

By: Senator B. Ballinger

By: Representative Capp

For An Act To Be Entitled

AN ACT REQUIRING AN INMATE IN THE DEPARTMENT OF
CORRECTION TO FIRST EXHAUST ALL AVAILABLE
ADMINISTRATIVE REMEDIES AS A CONDITION PRECEDENT TO
FILING A CLAIM UNDER THE ARKANSAS CIVIL RIGHTS ACT OF
1993 OR ANY OTHER STATE LAW CONCERNING PRISON
CONDITIONS; AND FOR OTHER PURPOSES.

Subtitle

REQUIRING AN INMATE IN THE DEPARTMENT OF
CORRECTION TO FIRST EXHAUST ALL AVAILABLE
ADMINISTRATIVE REMEDIES AS A CONDITION
PRECEDENT TO FILING A CLAIM UNDER THE
ARKANSAS CIVIL RIGHTS ACT OF 1993 OR ANY
OTHER STATE LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-106-301 is amended to read as follows:

16-106-301. Exhaustion of administrative remedies required –

Definition.

~~No action shall be brought~~ (a) An incarcerated person may not bring an
action with respect to prison conditions under the Arkansas Civil Rights Act
of 1993, § 16-123-101 et seq., any other state law, 42 U.S.C. § 1983, or any
other federal law, ~~by an incarcerated person, defined for purposes of this~~
~~subchapter as a person who has been convicted of a crime and is incarcerated~~
~~for that crime or is being held in custody for trial or sentencing,~~ until



~~such the incarcerated person has exhausted all available administrative remedies as are available are exhausted, provided, that the statute of limitations is tolled during the period of time the application for the administrative remedies is pending.~~

(b) As used in this section, "incarcerated person" means a person who:

(1) Has been convicted of an offense and is incarcerated for that offense; or

(2) Is being held in custody for trial or sentencing.

(c) This section does not apply to an action challenging the validity of a conviction or sentence, including without limitation the following actions:

(1) Direct appeal;

(2) A petition under Rule 37 of the Arkansas Rules of Criminal Procedure;

(3) A petition for writ of error coram nobis; or

(4) A petition for writ of habeas corpus.

(d) When determining the issue of exhaustion of administrative remedies, including if a dismissal of an action is without prejudice, the court may look to state and federal court decisions that interpret the Prison Litigation Reform Act, 42 U.S.C. § 1997e.

/s/B. Ballinger