

94TH CONGRESS
2D SESSION

H. R. 12008

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 19, 1976

Mr. RAILSBACK introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To reduce the burden on the Federal courts of prisoners' suits brought under section 1983 of title 42, United States Code, to improve the administration of State institutions holding confined persons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That, as used in this Act, institution means—

4 (1) any jail, prison or other correctional facility, or
5 facility, or any pretrial detention facility;

6 (2) any facility in which juveniles are held await-
7 ing trial or to which juveniles are committed for purposes
8 of receiving rehabilitative care or treatment;

9 (3) any mental hospital;

1 (4) any institution or treatment facility for men-
2 tally retarded persons;

3 (5) any facility for the chronically physically ill or
4 handicapped; or

5 (6) any nursing home where persons are involun-
6 tarily held.

7 Whenever the Attorney General has reasonable cause to
8 believe that a State or its agents are subjecting persons
9 involuntarily confined in an institution to conditions which
10 deprive them of any rights, privileges, or immunities se-
11 cured or protected by the Constitution or laws of the United
12 States, and that such deprivation is pursuant to a pattern
13 or practice of resistance to the full enjoyment of such rights,
14 privileges, or immunities, the Attorney General is author-
15 ized to institute a civil action for or in the name of the
16 United States in any appropriate district court of the United
17 States against such parties and for such relief as he deems
18 necessary to insure the full enjoyment of such rights, priv-
19 ileges, or immunities.

20 SEC. 2. Prior to the institution of a suit under section 1,
21 the Attorney General shall certify that he has notified ap-
22 propriate officials of the institution of the alleged depriva-
23 tions of rights, privileges, or immunities secured or pro-
24 tected by the Constitution or laws of the United States; that
25 he is satisfied that the officials have had a reasonable time

1 to correct such deprivations and that such a suit by the
2 United States is in the public interest.

3 SEC. 3. Whenever an action has been commenced in
4 any court of the United States seeking relief from condi-
5 tions which deprive persons involuntarily confined in State
6 institutions of any rights, privileges, or immunities secured
7 or protected by the Constitution or laws of the United
8 States, the Attorney General for or in the name of the
9 United States may intervene in such action upon timely
10 application if the Attorney General certifies that the case
11 is of general public importance. In such case the United
12 States shall be entitled to the same relief as if it had insti-
13 tuted the action.

14 SEC. 4. Relief shall not be granted by a district court in
15 an action brought pursuant to section 1979 of the Revised
16 Statutes (42 U.S.C. 1983) by an individual involuntarily
17 confined in any State institution alleging deprivation of any
18 rights, privileges, or immunities secured or protected by the
19 Constitution or laws of the United States, unless it appears
20 that the individual has exhausted such plain, speedy, and
21 efficient State administrative remedy as is available: *Pro-*
22 *vided*, That, exhaustion shall not be required if it appears
23 that there exist circumstances rendering such administrative
24 remedy ineffective to protect his rights.

1 SEC. 5. It shall be unlawful to coerce, intimidate,
2 threaten, or interfere with any person on account of his
3 having pursued an administrative remedy or having made a
4 complaint, testified, assisted, or participated in an investiga-
5 tion, proceeding, or hearing pursuant to this Act. This section
6 may be enforced in an appropriate civil action by such per-
7 son or by the Attorney General.

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