

## 1999 ASSEMBLY BILL 783

February 22, 2000 – Introduced by Representatives GOETSCH, LA FAVE, MUSSER, HAHN, NASS, OWENS, LADWIG, ALBERS, VRAKAS and SPILLNER, cosponsored by Senators HUELSMAN, ROESSLER, DRZEWIECKI and SCHULTZ, by request of Department of Justice. Referred to Committee on Corrections and the Courts.

1     **AN ACT to amend** 801.02 (7) (d) and 814.29 (1m) (c) (intro.) of the statutes;  
2     **relating to:** denial of prisoner's request to bring an action.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a prisoner asks a court for permission to bring an action without the payment of any service or fee because of his or her indigence, the court may dismiss that request if the prisoner has, on three or more occasions, while a prisoner, brought an action that was dismissed because the action was frivolous. This bill also allows the court to deny the request to bring an action without the payment of any service or fee because of his or her indigence if the prisoner has, on three or more occasions, while a prisoner, sought leave to bring an action without the payment of any service or fee because of his or her indigence that was denied because the action was frivolous. These prohibitions do not apply if the court determines that the prisoner is in imminent danger of serious physical injury.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3     **SECTION 1.** 801.02 (7) (d) of the statutes is amended to read:  
4     801.02 (7) (d) If the prisoner seeks leave to proceed without giving security for  
5     costs or without the payment of any service or fee under s. 814.29, the court shall

**ASSEMBLY BILL 783****SECTION 1**

1 ~~dismiss any~~ deny the request to proceed in the action or special proceeding, including  
2 a petition for a common law writ of certiorari, ~~commenced by any prisoner~~ if that  
3 prisoner has, on 3 or more prior occasions, while he or she was incarcerated,  
4 imprisoned, confined or detained in a jail or prison, ~~brought done any of the following:~~

5 1. Brought an appeal, writ of error, action or special proceeding, including a  
6 petition for a common law writ of certiorari, that was dismissed by a state or federal  
7 court for any of the reasons listed in s. 802.05 (3) (b) 1. to 4.

8 2. Sought leave to proceed without giving security for costs or without the  
9 payment of any service or fee under s. 814.29 that was denied by a state or federal  
10 court for any of the reasons listed in s. 802.05 (3) (b) 1. to 4.

11 (e) The court may permit a prisoner to commence the action or special  
12 proceeding, notwithstanding this paragraph (d), if the court determines that the  
13 prisoner is in imminent danger of serious physical injury.

14 **SECTION 2.** 814.29 (1m) (c) (intro.) of the statutes is amended to read:

15 814.29 **(1m)** (c) (intro.) Except when ~~dismissal is required~~ the court denies the  
16 prisoner the right to proceed under s. 801.02 (7) (d) or upon determining that any of  
17 the conditions under s. 802.05 (3) (b) 1. to 4. are present, the court shall issue an order  
18 permitting the prisoner to commence or defend an action, special proceeding, writ of  
19 error or appeal without the prepayment of fees or costs or without being required to  
20 give security for costs if all of the following conditions are met:

21 (END)