

RESOLUTION 12-06-2018

DIGEST

Inmates: Streamlining Administrative Requirements

Adds Government Code sections 908, 945.5, and 952 to provide that inmates and parolees who file a grievance do not have to submit a separate form with the Government Claims Board.

STATEMENT OF REASONS

The Problem: Many inmates run out the clock on their state law claims for damages without realizing it. When subject to excessive force by a guard, or a failure to protect, they file a complaint with the Department of Corrections known as a 602. Although that is a prerequisite for filing a Federal civil rights claim and tolls that statute of limitations, it does not affect their claims under state law. Under the California Tort Claims Act, claims for damages against public entities and employees need to be filed with the Government Claims Board within six months after the incident, or the claim is forfeited. Inmates are often unaware that they need to submit a separate form for their state claims, resulting in their loss of opportunity to file.

The Solution: This resolution ensures that the complaint filed with the Department of Corrections satisfies the state’s requirements to preserve state law claims and forwards a copy of the complaint to the Government Claims Board for consideration unless the inmate requests otherwise.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to add Government Code section 908, 945.5, and 952, to read as follows:

1 § 908
2 Notwithstanding any other provision, any claim filed by an inmate or parolee under
3 federal or state law against a prison, jail, or employees according to the process of California
4 Code of Regulations Title 15, sections 3084, et seq. shall, unless the inmate or parolee explicitly
5 requests otherwise (1) also be received by the Board as defined in § 900.2(b) for its consideration
6 and (2) satisfy the requirements of § 905.2(b).
7

8 § 945.5
9 Notwithstanding any other provision, any claim filed by an inmate or parolee under
10 federal or state law against a prison, jail, or employees according to the process of California
11 Code of Regulations Title 15, sections 3084, et seq. shall, unless the inmate or parolee explicitly
12 requests otherwise (1) also be received by the Board as defined in § 940.2(b) for its consideration
13 and (2) satisfy the requirements of § 945.4.
14

15 § 952
16 Notwithstanding any other provision, any claim filed by an inmate or parolee under
17 federal or state law against a prison, jail, or employees according to the process of California
18 Code of Regulations Title 15, sections 3084, et seq. shall, unless the inmate or parolee explicitly

19 requests otherwise (1) also be received by the Board as defined in § 940.2(b) for its consideration
20 and (2) satisfy the requirements of § 945.4.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: San Diego County Bar Association

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

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