

**59-29a24. Civil actions; exhaustion of administrative remedies required.** (a) Any patient in the custody of the secretary of social and rehabilitation services pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, prior to filing any civil action naming as the defendant pursuant to the rules of civil procedure, the state of Kansas, any political subdivision of the state of Kansas, any public official, the secretary of social and rehabilitation services or an employee of the department of social and rehabilitation services, while such employee is engaged in the performance of such employee's duty, shall be required to have exhausted such patient's administrative remedies, established by procedures adopted pursuant to subsection (d) of K.S.A. 59-29a22, and amendments thereto, concerning such civil action. Upon filing a petition in a civil action, such patient shall file with such petition proof that the administrative remedies have been exhausted.

(b) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that:

(1) The allegation of poverty is untrue, notwithstanding the fact that a filing fee, or any portion thereof has been paid; or

(2) the action or appeal:

(A) Is frivolous or malicious;

(B) fails to state a claim on which relief may be granted; or

(C) seeks monetary relief against a defendant who is immune from such relief.

(c) In no event shall such patient bring a civil action or appeal a judgment in a civil action or proceeding under this section if such patient has, on three or more prior occasions, while in the custody of the secretary of social and rehabilitation services pursuant to K.S.A. 59-29a01 et seq., and amendments thereto, brought an action or appeal in a court of the state of Kansas or of the United States that was dismissed on the grounds that it was frivolous, malicious or failed to state a claim upon which relief may be granted, unless the patient is under imminent danger of serious physical injury.

(d) The provisions of this section shall not apply to a writ of habeas corpus.

**History:** L. 2012, ch. 90, § 1; July 1.