

S.140

An act relating to prohibiting civil arrests at courthouses.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to ensure that every person in the State of Vermont retains the right to free and unfettered access to justice under the law. No person should be denied access to justice because they fear being subject to civil arrest when attending a court hearing or traveling to or from a courthouse. All persons should have the opportunity to use the court system to advocate for themselves and their interests. Prohibiting civil arrests at a courthouse prevents disruption of court proceedings, protects the proper functioning of courts, provides a safe and secure location for the resolution of disputes, and promotes public safety by ensuring that victims and witnesses are not discouraged from attending court proceedings. It is the intent of the General Assembly, consistent with long-established common law, to prohibit civil arrests of individuals at courthouses or traveling to and from a courthouse to uphold the principle set forth in Article 4 of the Vermont Constitution that provides, in part, that “every person within this state ought to find a certain remedy, by having recourse to our laws, for all injuries and wrongs,” and that

“every person ought to obtain [that] right freely . . . completely and without denial . . . [or] delay.”

Sec. 2. 12 V.S.A. § 3577 is amended to read:

§ 3577. PRIVILEGE FROM ARREST

(a) The Governor, Lieutenant Governor, State Treasurer, Secretary of State, Auditor of Accounts, Attorney General, and members of the General Assembly and officers and witnesses whose duty it is to attend thereon, in all cases except treason, felony, and breach of the peace, shall be privileged from arrest and imprisonment during their necessary attendance on and in going to and returning from the General Assembly.

(b) A party or witness in a cause pending in any court in the State or before special masters, auditors, referees, or commissioners, and a witness in a criminal cause pending in any such court, shall not be arrested, imprisoned, or detained by virtue of civil process. Any witness summoned from outside the State in a criminal cause, pending in any court within the State, shall be privileged from the service of papers of any kind whatsoever, and from arrest for any cause while going to, attending at, or returning from such court or trial of such cause.

(c)(1) Prohibition. A person shall not be subject to civil arrest while traveling to, entering, remaining at, or returning from a court proceeding.

(2) Exceptions. Subdivision (1) of this subsection shall not apply to:

(A) an arrest pursuant to a judicially issued warrant or a court order;

(B) an arrest for contempt of the court where the proceeding is occurring; or

(C) an arrest to maintain order or safety in the court where the proceeding is occurring.

(3) Remedies.

(A) A person who violates this subsection by knowingly and willfully executing or assisting with an arrest prohibited by subdivision (1) of this subsection (c) shall be subject to contempt proceedings and may be liable in a civil action for false imprisonment.

(B) A person who is arrested in violation of subdivision (1) of this subsection (c) may bring a civil action against the violator for damages; injunctive, equitable, or declaratory relief; punitive damages; and reasonable costs and attorney's fees.

(C) The Office of the Attorney General may bring a civil action on behalf of the State of Vermont for appropriate injunctive, equitable, or declaratory relief if there is reasonable cause to believe that a violation of subdivision (1) of this subsection (c) has occurred or will occur.

(D) No action under this subsection shall be brought against the Judiciary or any of its members or employees for actions taken to maintain order or safety in the courts.

(E) This section shall not be construed to limit or infringe upon any right, privilege, or remedy available under common law or any other provision of law or rule.

(F) Notwithstanding section 3578 of this title, the protections and remedies afforded by this subsection apply irrespective of when the privilege against civil arrest is invoked.

(4) Definition. As used in this subsection, “civil arrest” means an arrest for purposes of obtaining a person’s presence or attendance at a civil proceeding, including an immigration proceeding.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.