

1 S.140

2 Introduced by Senator Baruth

3 Referred to Committee on Judiciary

4 Date: April 21, 2021

5 Subject: Court procedure; civil arrest at courthouses; prohibition; private right
6 of action

7 Statement of purpose of bill as introduced: This bill proposes to prohibit civil
8 arrests at courthouses.

9 An act relating to prohibiting civil arrests at courthouses

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 ~~Sec. 1. 12 V.S.A. § 3701 is added to read:~~

12 § 3701. PROHIBITION ON CIVIL ARREST AT COURTHOUSES

13 (a) Prohibition. Any person or family or household member of the person
14 who is attending a court proceeding in good faith as a party, juror, attorney, or
15 witness shall be privileged from civil arrest while traveling to, entering,
16 remaining at, or returning from the court proceeding.

17 (b) Exceptions. Subsection (a) of this section shall not apply to:

18 ~~(1) an arrest pursuant to a judicially issued warrant or a court order,~~

1 ~~(2) an arrest for contempt of the court where the proceeding is~~
2 ~~occurring; or~~

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

5 (c) Penalties. A person who violates this section by executing or assisting
6 with an arrest prohibited by subsection (a) of this section shall be subject to
7 civil contempt proceedings pursuant to 12 V.S.A. chapter 5 and may be liable
8 for false imprisonment in an action brought under subsection (d) of this
9 section.

10 (d) Private right of action.

11 (1) A person who is arrested in violation of subsection (a) of this section
12 may bring a civil action in the Civil Division of the Superior Court against the
13 violator for damages, injunctive relief, punitive damages in the case of a
14 willful violation, and reasonable costs and attorney's fees.

15 (2) The Office of the Attorney General may bring an action under
16 subdivision (1) of this subsection on behalf of the State of Vermont if there is
17 reasonable cause to believe that a violation of subsection (a) of this section has
18 occurred or will occur.

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

1 ~~(c) Definitions. As used in this section.~~

2 ~~(1) "Civil arrest" means an arrest for purposes of obtaining a person's~~
3 ~~presence or attendance at a civil proceeding, including an immigration~~
4 ~~proceeding.~~

5 ~~(2) "Household member" has the same meaning as in 15 V.S.A. § 1101.~~

6 Sec. 2. EFFECTIVE DATE

7 ~~This act shall take effect on passage.~~

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(a) Prohibition. Any person or family or household member of the person who is attending a court proceeding in good faith as a party, juror, attorney, or witness shall be privileged from civil arrest while traveling to, entering, remaining at, or returning from the court proceeding.

(b) Exceptions. Subsection (a) of this section shall not apply to:

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

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

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

(c) Remedies.

(1) A person who violates this section by knowingly and willfully executing or assisting with an arrest prohibited by subsection (a) of this section shall be subject to civil contempt proceedings pursuant to chapter 5 of this title and may be liable in a civil action for false imprisonment.

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

(3) 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 subsection (a) of this section has occurred or will occur.

(4) 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.

(d) Definitions. As used in this section:

(1) "Civil arrest" means an arrest for purposes of obtaining a person's presence or attendance at a civil proceeding, including an immigration proceeding.

(2) "Household member" has the same meaning as in 15 V.S.A. § 1101.

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