

2022 Legislative Wrap-up

Wednesday, June 29
1:00–3:00 p.m.
Room 10, State House

- Act 147 (H.729), An act relating to miscellaneous judiciary procedures (Sec. 39, statute of limitations for actions based on discrimination)
- Act 153 (S.140), An act relating to prohibiting civil arrests at courthouses

Erik Fitzpatrick, Legislative Counsel

Act No. 147, Sec. 39 (H.729)
An act relating to miscellaneous judiciary procedures
Statute of limitations for claims related to employment
or housing discrimination

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Current Law

Title 12: Court Procedure

Chapter 23: Limitation Of Time For Commencement Of Actions

§ 511. CIVIL ACTION

A **civil action**, except one brought upon the judgment or decree of a court of record of the United States or of this or some other state, and except as otherwise provided, shall be commenced within **six years** after the cause of action accrues and not thereafter.

§ 512. ASSAULT AND BATTERY; FALSE IMPRISONMENT; SLANDER AND LIBEL; **INJURIES TO PERSON OR PROPERTY**

Actions for the following causes shall be commenced within **three years** after the cause of action accrues, and not after:

- (1) assault and battery;
- (2) false imprisonment;
- (3) slander and libel;

(4) except as otherwise provided in this chapter, **injuries to the person** suffered by the act or default of another person, provided that the cause of action shall be deemed to accrue as of the date of the discovery of the injury;

- (5) damage to personal property suffered by the act or default of another.

2022 Act No. 147. An act relating to miscellaneous judiciary procedures.

(H.729)

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

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Sec. 39. 12 V.S.A. § 525 is added to read:

§ 525. ACTIONS BASED ON DISCRIMINATION

An action under 9 V.S.A. § 4506(a) (discrimination in public accommodations or housing) or 21 V.S.A. § 495b (employment discrimination) shall be commenced within six years after the cause of action accrues and not after.

Act No. 153 (S.140)
**An act relating to prohibiting civil arrests at court
houses**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----STATE OF NEW YORK

and ERIC
GONZALEZ
Plaintiffs,

-v-

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, et al.
Defendants.

December 19, 2019

English common law provided a privilege against any civil arrests in and around courthouses, and also against civil arrests of witnesses and parties necessarily traveling to and from the courthouse. 7 Blackstone's famous Commentaries, on which early U.S. courts heavily relied in incorporating English common law into the laws of the several states and the United States, provides explicitly that:

Suitors, witnesses, and other persons, necessarily attending any courts of record upon business, are not to be arrested during their actual attendance, which includes their necessary coming and returning. And no arrest can be made in the king's presence, nor within the verge of his royal palace, nor in any place where the king's justices are actually sitting.

3 William Blackstone, Commentaries on the Laws of England
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(1768). Furthermore, although the privilege goes back to at least the fifteenth century, Lasch, *supra* n.7, at 423, English courts reconfirmed this privilege in several late eighteenth and early nineteenth century cases, i.e., at the very time that English common law was being incorporated into the laws of the new states of the nascent American republic. See, e.g., *Meekins v. Smith* (1791), 126 Eng. Rep. 363, 363 ("[A]ll persons who had relation to a suit which called for their attendance, whether they were compelled to attend by process or not, were intitled [sic] to privilege from arrest eundo et redeundo [going and returning], provided they came bona fide."); *Walpole v. Alexander* (1782), 99 Eng. Rep. 530, 530-31 (holding that a witness from France could not be arrested in England while in the country to testify in another case); *Orchard's Case* (1828), 38 Eng. Rep. 987, 987-88 (holding that a lawyer who was arrested while he was at a court in a non-professional capacity was not validly arrested).

The purposes of this privilege were both to encourage parties and witnesses "to come forward voluntarily," *Walpole*, 99 Eng. Rep. at 531; *The King v. Holy Trinity in Wareham* (1782), 99 Eng. Rep. 530, 530-31, and also to maintain order in the courthouse, *Orchard's Case*, 38 Eng. Rep. at 987 ("To permit arrest to be made in the Court would give occasion to perpetual tumults . . ."). It thus served, in either case, to enable courts to function properly. 8

This privilege was adopted into American common law after independence.

The common law privilege was never thought to apply to criminal arrests.



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No. 153. An act relating to prohibiting civil arrests at courthouses.

(S.140)

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

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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.