

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 140
3 entitled “An act relating to prohibiting civil arrests at courthouses” respectfully
4 reports that it has considered the same and recommends that the House propose
5 to the Senate that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 **Sec. 1. LEGISLATIVE INTENT**

8 It is the intent of the General Assembly to ensure that every person who
9 lives and works in the State of Vermont retains the right to free and unfettered
10 access to justice under the law. No person should be denied access to justice
11 because they fear being subject to civil arrest when attending a court hearing or
12 traveling to or from a courthouse. All persons should have the opportunity to
13 use the court system to advocate for themselves and their interests. Prohibiting
14 civil arrests at a courthouse prevents disruption of court proceedings, protects
15 the proper functioning of courts, provides a safe and secure location for the
16 resolution of disputes, and promotes public safety by ensuring that victims and
17 witnesses are not discouraged from attending court proceedings. It is the intent
18 of the General Assembly, consistent with long-established common law, to
19 prohibit civil arrests of individuals at courthouses or traveling to and from a
20 courthouse to uphold the principle set forth in Article 4 of the Vermont
21 Constitution that provides, in part, that “every person within this state ought to

1 find a certain remedy, by having recourse to our laws, for all injuries and
2 wrongs,” and that “every person ought to obtain [that] right freely . . .
3 completely and without denial . . . [or] delay.”

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

5 § 3577. PRIVILEGE FROM ARREST

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

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

20 (c)(1) Prohibition. Any person or family or household member of the
21 person who is attending a court proceeding in good faith as a party, juror,

1 attorney, or witness shall be privileged from shall not be subject to civil arrest
2 while traveling to, entering, remaining at, or returning from the a court
3 proceeding.

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

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

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

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

10 (3) Remedies.

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

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

19 (C) The Office of the Attorney General may bring a civil action on
20 behalf of the State of Vermont for appropriate injunctive, equitable, or

1 declaratory relief if there is reasonable cause to believe that a violation of
2 subdivision (1) of this subsection has occurred or will occur.

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

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

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

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

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

16 Sec. 3. EFFECTIVE DATE

17 This act shall take effect on passage.

18
19 (Committee vote: _____)

1

2

Representative _____

3

FOR THE COMMITTEE