

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

1 remedy, by having recourse to our laws, for all injuries and wrongs,” and that
2 “every person ought to obtain [that] right freely . . . completely and without
3 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. A person shall not be subject to civil arrest while
21 traveling to, entering, remaining at, or returning from a court proceeding.

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

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

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

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

7 (3) Remedies.

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

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

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

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

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

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

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

13 Sec. 3. EFFECTIVE DATE

14 This act shall take effect on passage.

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18 (Committee vote: _____)

19 _____

20 Representative _____

21 FOR THE COMMITTEE