

To: House Judiciary Committee
From: Indi Schoenherr, Advocacy Fellow ACLU-VT
Re: S.140
Date: 3/30/2022

The ACLU of Vermont supports S.140 because it creates a more accessible legal system for all residents of Vermont. As an organization that works to protect people's civil liberties, we recognize the importance of making sure that our courts are open to everyone. For that reason, we strongly support this bill's proposal to prohibit civil arrests of any person or family or household member who is attending a court proceeding.



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Under the Trump administration, both Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) dramatically expanded their presence at criminal and civil courts, including in family, landlord-tenant, and traffic courts across the United States. In New York, Immigrant Defense Project's survey found that the number of courthouse arrests increased by 1,200% in 2017.ⁱ In 2018, the ACLU and the National Immigrant Women's Advocacy Project (NIWAP) conducted a surveyⁱⁱ of law enforcement officers, judges, prosecutors, and others in the first-year Trump was in office.

What is clear from these results is the presence of these officers and increased immigration arrests have created deep insecurity and fear among immigrant communities, stopping many from coming to court or even calling police in the first place. The impact of immigration enforcement at courthouses greatly undermines the security of vulnerable communities and the fundamental right to equal protection under the law, shared by noncitizens and citizens.

The fear of courthouse arrests means immigrants are less likely to cooperate with law enforcement investigations, report crimes, and participate in court proceedings.ⁱⁱⁱ This can have a negative impact on public safety. Prosecutors across the U.S. reported that crimes including domestic violence, sexual assault and human trafficking were harder to investigate and prosecute because immigrant crime survivors feared immigration consequences if they came forward.^{iv} Courts cannot operate fairly and effectively when people do not feel safe appearing in person.

Some of the key findings from that report include:

- Approximately 20% of law enforcement officer surveyed found that immigrant crime survivors were less likely to help investigators when police arrived at the scene of a crime, to help in post crime scene investigations, or to work with prosecutors compared to the previous year.^v

ⁱhttps://www.immigrantdefenseproject.org/wp-content/uploads/IDP_IceCourthouseArrests_Infographic-FINAL.png.

ⁱⁱ ACLU "Freezing Out Justice Report", <https://www.aclu.org/report/freezing-out-justice>

ⁱⁱⁱ This survey is based on responses from 232 law enforcement officers in 24 states; 103 judges, three court staff and two court administrators in 25 states; 50 prosecutors in 19 states; and 389 survivor advocates and legal service providers spread across 50 states.

^{iv} ACLU "Freezing Out Justice" Report, p. 2.

^v ACLU "Freezing Out Justice" Report, p.1.

- 82% of prosecutors said that compared to the previous year domestic violence cases were underrepresented and harder to prosecute. 70 % reported the same for sexual assault, 55 % found the same difficulties for human trafficking, and 48% for child abuse.^{vi}
- Advocates and legal service providers reported at 40% decrease in the number of cases filed on behalf of immigrant crime survivors.^{vii}

In the Senate Judiciary Committee, some of the discussion focused on the question of who this bill should encompass – specifically, whether to extend its protections beyond people directly in the court proceedings, to include family members accompanying them. There are several legitimate reasons why it may be necessary for a family member to accompany an individual to the court. As highlighted in previous testimony, sometimes family members are requested by the court, they may be needed to provide transportation, or to provide support for victims of crimes. For these reasons, the ACLU supports extending the same protections to all people in Vermont courthouses, none of whom should fear detention by ICE or be deterred from accessing the legal system as a result.

Vermont has made great progress in making the state a safer, more welcoming place for all residents. Everyone who calls this state home deserves access to justice and we support this bill because it is one more way to help build trust with immigrant communities and better support the safety of communities across the state.



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^{vi} ACLU “Freezing Out Justice” Report, p.2.

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