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S.209

Introduced by Senators Vyhovsky, Bongartz, Gulick, Hashim, Perchlik,
Watson and White

Referred to Committee on

Date:

Subject: Court procedure; civil arrest; prohibitions

Statement of purpose of bill as introduced: This bill proposes to add
government buildings, schools, shelters, and health care facilities to the list of
sensitive locations where a person is not subject to a civil arrest.

An act relating to prohibiting civil arrest in sensitive locations

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

Sec. 1. 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.

1 (b) A party or witness in a cause pending in any court in the State or before
2 special masters, auditors, referees, or commissioners, and a witness in a
3 criminal cause pending in any such court, shall not be arrested, imprisoned, or
4 detained by virtue of civil process. Any witness summoned from outside the
5 State in a criminal cause, pending in any court within the State, shall be
6 privileged from the service of papers of any kind whatsoever, and from arrest
7 for any cause while going to, attending at, or returning from such court or trial
8 of such cause.

9 (c)(1) Prohibition. A person shall not be subject to civil arrest while
10 traveling to, entering, remaining at, or returning from a:

11 (A) court proceeding;

12 (B) State, county, or municipal building;

13 (C) school;

14 (D) community-based shelter, severe weather shelter, or emergency
15 housing provided through 33 V.S.A. chapter 21; or

16 (E) health care facility, as that term is defined in 18 V.S.A.
17 § 9402(6).

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

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

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

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

3 (3) Remedies.

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

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

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

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

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

1 (F) Notwithstanding section 3578 of this title, the protections and
2 remedies afforded by this subsection (c) apply irrespective of when the
3 privilege against civil arrest is invoked.

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

7 Sec. 2. EFFECTIVE DATE

8 This act shall take effect on passage.