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S.209

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.

(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:

1           (A) court proceeding;

2           (B) polling place;

3           (C) educational institution;

4           (D) social services establishment, which includes a crisis center,

5           domestic violence shelter, victim services center, child advocacy center,

6           supervised visitation center, family justice center, facility that serves disabled

7           persons, homeless shelter, substance use disorder counseling and treatment

8           facility, and an establishment distributing food or other essentials of life to

9           people in need;

10          (E) place of worship;

11          (F) facility:

12               (i) regulated by the Child Development Division of the

13          Department for Children and Families; or

14               (ii) licensed as a children's camp pursuant to 18 V.S.A. § 4301 or

15          that serves as a day camp; or

16          (G) 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:~~

7 (i) may be liable in a civil action for false imprisonment; and

8 (ii) shall be subject to contempt proceedings, if the arrest is  
9 pursuant to subdivision (1)(A) of this subsection (c).

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

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

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

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

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

7 (4) ~~Definition~~ Definitions. As used in this subsection:

8 (A)(i) ~~“civil Civil arrest”~~ means an arrest for purposes of obtaining a  
9 person’s presence or attendance at a civil proceeding, including an immigration  
10 proceeding.

11 (ii) “Civil arrest” does not include:

12 (I) temporary custody of a person pending a warrant pursuant  
13 to 18 V.S.A. § 7505(b); or

14 (II) holding a person for admission to a hospital for an  
15 emergency examination pursuant to 18 V.S.A. § 7504.

16 (B)(i) “Educational institution” means:

17 (I) a public school, as that term is defined in 16 V.S.A. § 11(7);

18 (II) an independent school, as that term is defined in 16 V.S.A.  
19 § 11(8);

20 (III) a regional CTE center, as that term is defined in 16 V.S.A.  
21 § 1522(4);

1                    (IV) an approved education program, as that term is defined in  
2                    16 V.S.A. § 11(34);

3                    (V) a prequalified private prekindergarten provider, as that  
4                    term is defined in 16 V.S.A. § 829(a)(3);

5                    (VI) a postsecondary school, as that term is defined in  
6                    16 V.S.A. § 176(b)(1);

7                    (VII) an educational program operated by a Board of  
8                    Cooperative Education Services pursuant to 16 V.S.A. chapter 10;

9                    (VIII) a tutorial program, as that term is defined in 16 V.S.A.  
10                  § 11(27); and

11                  (IX) an adult education and secondary credential program  
12                  operated pursuant to 16 V.S.A. § 945.

13                  (ii) “Educational institution” also extends to grounds operated by,  
14                  activities sponsored by, transportation provided by, and programs related to  
15                  educational institutions.

16                  (C) “Polling place” means a place that a municipality has designated  
17                  to the Secretary of State as a polling place pursuant to 17 V.S.A. § 2502(f).

18                  Sec. 2. EFFECTIVE DATE

19                  This act shall take effect on passage.