

S.140

Introduced by Senator Baruth

Referred to Committee on

Date:

Subject: Court procedure; civil arrest at courthouses; prohibition; private right
of action

Statement of purpose of bill as introduced: This bill proposes to prohibit civil
arrests at courthouses.

An act relating to prohibiting civil arrests at courthouses

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

Sec. 1. 12 V.S.A. § 3701 is added to read:

§ 3701. PROHIBITION ON CIVIL ARREST AT COURTHOUSES

(a) Prohibition. Any person or family or household member of the person
who is attending a court proceeding in good faith as a party, juror, attorney, or
witness shall be privileged from civil arrest while traveling to, entering,
remaining at, or returning from the court proceeding.

(b) Exceptions. Subsection (a) of this section shall not apply to:

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

(2) an arrest for contempt of the court where the proceeding is

occurring; or

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

3 (c) ~~Penalties.~~ Remedies

4 (1) A person who violates this section by executing or assisting
5 with an arrest prohibited by subsection (a) of this section shall be subject to
6 civil contempt proceedings pursuant to 12 V.S.A. chapter 5 and may be liable
7 in a civil action for false imprisonment. ~~in an action brought under subsection (d) of~~
8 this
9 section.

9 (d) Private right of action.

10 (2) A person who is arrested in violation of subsection (a) of this section
11 may bring a civil action in the Civil Division of the Superior Court against the
12 violation for damages, injunctive relief, punitive damages in the case of a
13 willful violation, and reasonable costs and attorney's fees.

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

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

Commented [JE1]: Would "IS" subject be better? I'm not sure. Would "shall" create an unintended mandate on the courts?

Commented [JE2]: Is this section necessary?

1 (e) Definitions. As used in this section:

2 (1) "Civil arrest" means an arrest for purposes of obtaining a person's
3 presence or attendance at a civil proceeding, including an immigration
4 proceeding.

5 (2) "Household member" has the same meaning as in 15 V.S.A. § 1101.

6 Sec. 2. EFFECTIVE DATE

7 This act shall take effect on passage.