

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 873 (Reyes)
Version: March 25, 2026
Hearing Date: April 21, 2026
Fiscal: Yes
Urgency: No
ID

SUBJECT

Courthouses: privilege from civil arrest

DIGEST

This bill prohibits a person traveling to or from, or while present at, a courthouse for any lawful activity from being subject to civil arrest, as specified, provides the Attorney General and a person subject to civil arrest the authority to bring a civil action for a violation of that prohibition, requires the Judicial Council to promulgate various rules, and requires Judicial Council to annually prepare and publish online a report regarding law enforcement activity at courthouses, as specified.

EXECUTIVE SUMMARY

The ability of individuals to freely come to, participate in, and attend court proceedings is essential to the fair administration of justice and the operation of the courts. If individuals are deterred from coming to court or participating in court proceedings, court proceedings will be hampered and parties seeking redress in court will be unable to assert their rights or be made whole for their harms. Recognizing the importance of individuals' unimpeded access to the courts, common law has long recognized a privilege against civil arrest while persons are attending, or traveling to or from, court. However, in the past year, federal officials have arrested individuals at courthouse grounds across the state for immigration enforcement. This has discouraged many individuals from going to courthouses or participating in the judicial process, which presents a significant threat to the fair administration of justice at California's courts. While common law maintains a privilege from civil arrest and current law has codified this privilege, SB 873 clarifies and builds upon this existing law to ensure that the state's courts can operate without interference, including by providing the Attorney General and any individual subjected to civil arrest in violation of this law a cause of action for equitable and declaratory relief. In addition, SB 873 requires the Judicial Council to promulgate rules regarding when law enforcement attempts to access a courthouse, and

to create and publish online an annual report regarding law enforcement activity at courthouses by county.

SB 873 is sponsored by the California Public Defenders Association, California Rural Legal Assistance Foundation, and Western Center on Law and Poverty, and is supported by a large number of immigrants' rights organizations. The Committee has received no timely letters of opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes a common law privilege against civil arrest, holding that "Courts of justice ought everywhere to be open, accessible, free from interruption, and to cast a perfect protection around every man who necessarily approaches them. [Individuals] should be permitted to approach them, not only without subjecting himself to evil, but even free from the fear of molestation or hindrance." (*Stewart v. Ramsey* (1916) 242 U.S. 128, 129.)
- 2) Makes the following acts, in respect to a court of justice, or proceedings therein, contempt of the authority of the court:
 - a) unlawfully detaining a witness or party to an action while going to, remaining at, or returning from the court where the action is on the calendar for trial; and
 - b) any other unlawful interference with the process or proceedings of a court. (Code Civ. Proc. § 1209.)
- 3) Provides that California Code of Civil Procedure section 1209 is to be liberally construed to affect its objectives and promote justice. (*Burns v. Superior Court of San Francisco* (1903) 140 Cal. 1, 9.)
- 4) Gives judicial officers the power to:
 - a) preserve and enforce order in their immediate presence, and in proceedings before them, when they are engaged in the performance of their official duties; and
 - b) compel obedience to their lawful orders as provided in the Code of Civil Procedure. (Code Civ. Proc. § 177.)
- 5) Holds that a court has inherent power to exercise reasonable control over all proceedings connected with the litigation before it in order to ensure the orderly administration of justice and maintain the dignity and authority of the court, and to summarily punish for acts committed in the immediate view and presence of the court when they impede, embarrass, or obstruct it in the discharge of its duties. (*Mowrer v. Superior Court of Los Angeles County* (1969) 3 Cal.App.3d 223, 230.)

- 6) Provides that a person shall not be subject to civil arrest in a courthouse while attending a court proceeding or having legal business in the courthouse. Specifies that this provision does not narrow, or in any way lessen, any existing common law privilege, and that this provision does not apply to arrests made pursuant to a valid judicial warrant. (Civ. Code § 43.54.)

This bill:

- 1) Repeals the provisions described in 6), above.
- 2) Makes various findings and declarations regarding importance of access to the courts and protecting persons attending court from civil arrest.
- 3) Provides that a person shall not be subject to civil arrest while traveling to, present at, or traveling from a courthouse for any lawful activity. Specifies that it shall be presumed that a person present at a courthouse shall be presumed to be traveling to, engaging in, or traveling from, lawful activity at the courthouse.
- 4) Specifies that its provisions described in 3) do not narrow or in any way lessen any existing common law privilege.
- 5) Specifies that its provisions described in 3) do not apply to arrests made pursuant to a valid judicial warrant.
- 6) Permits a court to issue appropriate judicial orders to protect the privilege from civil arrest under the above provisions or under common law, in addition to the powers available under specified code.
- 7) Permits the Attorney General to bring a civil action in the name of the people of the State of California to obtain appropriate equitable and declaratory relief, if the Attorney General has reasonable cause to believe that a violation of the above-described provisions has occurred or is imminent.
- 8) Permits a person subject to a civil arrest in violation of 3) or the common law privilege from civil arrest to bring a civil action for appropriate equitable and declaratory relief, and provides that such a person shall be entitled to civil damages, including actual damages and statutory damages of \$10,000. Permits a successful party may recover court costs and reasonable attorney's fees.
- 9) Defines, for the purposes of the above-described provisions, the following:
 - a) "arrest" to mean a local, state, or federal law enforcement agency, its officers, or any other government entity taking an individual into custody;

- b) “civil arrest” to mean a local, state, or federal law enforcement agency, its officers, or any other government entity taking an individual into custody for an alleged violation of civil law;
 - c) “court proceeding” to mean the business conducted by a state court or a matter pending under the jurisdiction or supervision of a state court;
 - d) “courthouse” to mean court facilities as defined in specified existing law; any sidewalk, parkway, or street surrounding the court facilities and its premises; or any public way within one thousand feet of the court facilities, including a sidewalk, parkway, or street; and
 - e) “lawful activity” to mean any activity lawfully permitted at a courthouse, including but not limited to: observation of, attendance at, or involvement in court proceedings; any activities related to one’s employment at a courthouse; accompanying, supporting, or transporting a person to proceedings or business at a courthouse; the exercise of any constitutional rights at a courthouse; or otherwise being lawfully present at a courthouse.
- 10) Requires the Judicial Council to promulgate necessary rules, in order to maintain access to the court and open judicial proceedings for all persons and prevent interference with the needs of judicial administration, consistent with current specified powers of the court, to ensure that:
- a) Any representative of a local, state, or federal law enforcement agency who, while acting in an official capacity, enters a courthouse intending to arrest an individual, must: identify themselves to uniformed court personnel and state their specific law enforcement purpose and intended enforcement action to be taken; and provide court personnel with a copy of a valid judicial warrant concerning the intended enforcement action to be taken;
 - b) Any attorney, if any, of a person named in the warrant has the right to review the warrant; and
 - c) Courts maintain data regarding activities undertaken by law enforcement personnel at courthouses and provide that data to the Judicial Council.
- 11) Requires the Judicial Council to annually prepare a report compiling statistics, aggregated by county, including incidents of local, state, or federal law enforcement agencies engaging in law enforcement activity of any kind at courthouses, including but not limited to, the number and type of judicial warrants provided to court personnel before effectuating an arrest, and the date and specific location of arrests.
- 12) Requires the Judicial Council to publicly post this report on its public internet website and on the California Courts Judicial Branch of California website.

COMMENTS

1. Author's statement

According to the author:

SB 873 will protect the legal process for all in California by preventing indiscriminate arrests by ICE agents at scheduled court appearances. This bill will provide legal assurances that Californians are safe from immigration agents in and around the grounds of a courthouse.

The issue is clear cut, one of the core responsibilities of government is to protect people – not to inflict terror on them. California is not going to let the federal government make political targets out of people trying to be good stewards of the law. Discouraging people from coming to court makes our community less safe.

Several states, including New York, Illinois, and Washington have enacted legislation to protect the sanctity of courthouses from ICE deportations by preventing arrests at or near courthouses without a judicial warrant. California is joining those states by enacting legislation to protect individuals participating in court proceedings.

2. Immigration enforcement and detention has significantly increased in the last year

Since the start of its second term, the Trump Administration has expanded immigration enforcement and immigration detention to an unprecedented scale. In early 2025, it announced an arrest quota of 3,000 arrests a day.¹ As part of this increase in immigration enforcement, ICE has conducted immigration enforcement sweeps and raids of entire communities and cities across California and the United States, often detaining and arresting individuals through “at large” arrests on the street, and often through blatant racial profiling.² As a result, there was a four-fold increase in arrests by ICE in 2025, including a record 14,000 arrests in Los Angeles alone.³

¹ José Olivares, “Trump Administration sets quota to arrest 3,000 people a day in anti-immigration agenda,” The Guardian (May 29, 2025), <https://www.theguardian.com/us-news/2025/may/29/trump-ice-arrest-quota>.

² Wendy Fry, “Trump’s immigration crackdown upended life in California. It continues as the new year begins,” Cal Matters (Dec. 29, 2025) <https://calmatters.org/justice/2025/12/immigration-2025-year-in-review/>.

³ Elly Yu and Jordan Rynning, “ICE arrests tripled last year in LA – and more than half of those arrested had no criminal record,” LAist (Mar. 31, 2026), <https://laist.com/news/ice-arrests-tripled-los-angeles-immigration-customs-enforcement-data>.

Since at least 2015, ICE has limited immigration enforcement activities at or near courthouses to only very narrow circumstances.⁴ While the first Trump Administration considerably expanded the circumstances in which ICE was permitted to engage in immigration enforcement in 2018, that guidance was subsequently revoked and the 2014 policy of limiting immigration enforcement at courthouses was reinstated under the Biden Administration in 2021.⁵ This policy generally limited immigration enforcement at or near courthouses, except where it involves a national security threat, where there is an imminent risk of death, violence, or physical harm, where it involves the “hot pursuit” of an individual who poses a threat to public safety, or where there is an imminent risk of destruction of evidence to a criminal case.⁶ The guidance recognized that “immigration enforcement actions in or near a courthouse may chill individuals’ access to courthouses and, as a result, impair the fair administration of justice.”⁷ However, on January 21, 2025, the Trump Administration issued interim guidance that again rescinded this policy and instead explicitly permitted immigration enforcement at or near courthouses when ICE has credible information to believe that a targeted individual is or will be present at the courthouse.⁸ While this interim guidance and final guidance issued in May was enjoined by U.S. District Court Judge Casey Pitts on December 25, 2025, that ruling only applies to Northern California.⁹

In the past year, there have been numerous reports of ICE agents detaining individuals for immigration enforcement at state courthouses across California. Reporting has found that at least two dozen individuals have been detained on courthouse grounds at courthouses in Stanislaus, Glenn, Los Angeles, and Fresno counties.¹⁰ Many of these enforcement actions took place on the grounds of or outside the courthouse, though some also occurred inside the court itself. In one example, immigration agents conducted an immigration enforcement operation in Butte County’s Oroville courthouse.¹¹ This increased immigration enforcement in and around courthouses has

⁴ Memorandum from Phillip T. Miller, Assistant Director for Field Operations, to Field Office Directors & Deputy Field Office Directors, *Enforcement Actions at or Near Courthouses* (Mar. 19, 2014).

⁵ Memorandum from Tae Johnson, Acting Director of U.S. Dept. of Homeland Security, to U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection, *Civil Immigration Enforcement Actions in or near Courthouses* (Apr. 27, 2021), available at <https://www.cbp.gov/document/guidance/civil-immigration-enforcement-actions-or-near-courthouses-memo>.

⁶ *Id.*

⁷ *Id.*

⁸ Memorandum from Caleb Vitello, Acting Director of U.S. Immigration & Customs Enforcement, to all ICE Employees, *Interim Guidance: Civil Immigration Enforcement Actions in our near Courthouses* (Jan. 21, 2025). Note that this interim guidance was subsequently made final guidance in May of 2025; See, Memorandum from Todd M. Lyons, Acting Director of ICE, to all ICE employees, *Civil Immigration Enforcement Actions In or Near Courthouses* (May 27, 2025).

⁹ *Sequen v. Albarran*, 2025 U.S. Dist LEXIS 268723.

¹⁰ Niguel Duara, “California law forbids ICE from making arrests at courthouses. Officers are showing up anyway,” Cal Matters (Sept. 23, 2025), <https://calmatters.org/justice/2025/09/ice-courthouse-arrests/>.

¹¹ *Id.*

had the effect of discouraging noncitizens from attending court proceedings, for fear of being detained by the federal government.

3. The common law privilege from civil arrest and SB 668

There is a longstanding rule in the United States that people attending, going to, or returning from a court proceeding may not be placed under arrest in relation to an unrelated civil matter.¹² This rule is known as the common law privilege from civil arrest. While civil arrest originally related to bringing an individual into court for a civil suit, the practice of civilly arresting individuals in order to initiate a civil action has since been replaced by service of process, or the process of delivering to parties copies of the summons and complaint to notify them of the case. Nonetheless, the privilege still exists today. The common law privilege goes back hundreds of years to the common law of Britain, as William Blackstone's 1877 treatise "Commentaries on the Laws of England" described the privilege to mean that "sutors, witnesses, and other persons, necessarily attending any courts of record upon business, are not to be arrested during their actual attendance, which includes their necessary coming and returning."¹³

The rationale behind this common law privilege is that the proper functioning of the courts depends upon the ability of individuals to attend them without risk that they will be arrested or brought into court on an unrelated matter. The reasoning is summed up as this:

Courts of justice ought everywhere to be open, accessible, free from interruption, and to cast a perfect protection around every man who necessarily approaches them. [Individuals] should be permitted to approach them, not only without subjecting himself to evil, but even free from the fear of molestation or hindrance. He should also be enabled to procure, without difficulty, the attendance of all such persons as are necessary to manifest his rights.¹⁴

Thus, the common law privilege is meant to ensure that all individuals with business in the court can freely access it, so that justice is properly served. If individuals fear going to court, whether as a plaintiff, defendant, witness, or in any other role essential for the administration of justice and the operation of the courts, they may be deterred from going to court, and courts and the legal proceedings before them will be hampered, thereby denying justice to those coming before the court. In this way, "the essence of privilege is the sanctity of the court. It is 'founded in the necessities of the judicial administration, which would be often embarrassed, and sometimes interrupted, if the suitor might be vexed with process while attending upon the court.'"¹⁵ The privilege

¹² *Stewart v. Ramsay* (1916) 242 U.S. 128, 129 (describing the privilege as "well-settled" and encompassing both privilege from civil arrest and privilege from service of process); Lasch, *A Common-Law Privilege to Protect State and Local Courts During the Crimmigration Crisis* (2017) Yal L.J.F. 410, 423.

¹³ Blackstone, *Commentaries on the Laws of England* 766 (1877).

¹⁴ *Stewart v. Ramsay*, *supra* note 12, p. 129.

¹⁵ *Velasquez-Hernandez v. U.S. Immigration & Customs Enft* (2020) 500 F. Supp. 3d 1132, 1145.

and its protection is therefore central to the effective administration of justice and the exercise of fundamental rights; it is a privilege of the court as much as a privilege of the individual who visits the court.

4. Recent California laws aim to protect individuals at court

California law incorporates this privilege into statute. For example, the California Code of Civil Procedure makes it a contempt of the authority of the court to unlawfully detain a witness or party to an action while going to, remaining at, or returning from the court where the action is on the calendar for trial. (Code of Civ. Proc. § 1209(a)(9).) In addition, in 2019, the Legislature enacted AB 668 (Gonzalez, Ch. 787, Stats. 2019) to codify the privilege into law. AB 668 specified that a “person shall not be subject to civil arrest in a courthouse while attending a court proceeding or having legal business in the courthouse.” (Civ. Code § 43.54.) It also provided judicial officers with the authority to prohibit activities that threaten access to courthouses, including by protecting the privilege from arrest. By codifying these rules, AB 668 meant to preserve the individual rights of all Californians, preserve the vital role served by public access to court, and to ensure California courts’ ability to administer justice.

California also passed a variety of laws during the first Trump Administration meant to limit the state’s assistance with the federal government in immigration enforcement actions. One of these laws, SB 54 (De Leon, Ch. 492, Stats. 2017), prohibited state and local law enforcement agencies from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, subject to some exceptions. It also required the Attorney General to promulgate model policies limiting assistance with immigration enforcement at state courthouses, and required all courthouses to adopt these model policies or an equivalent policy. (Gov. Code § 7284.8.)

The Attorney General published their first model policies in 2018, and published updated model policies in 2024. These model policies require courts to: 1) identify nonpublic areas of the court facilities; 2) train staff on who may access nonpublic locations and on the different types of warrants and subpoenas; 3) prohibit personnel from assisting in immigration enforcement actions; and 4) require court personnel to notify the court executive officer or presiding judge as soon as possible of any request for access to nonpublic areas of the court or nonpublic court documents for immigration enforcement, request and make a copy of a requesting officer’s credentials, inquire into the officer’s reason for being at the courthouse, document and report an officer’s actions while on court premises, state that the court does not consent to the officer’s entry onto court facilities, and respond to the officer’s warrant or subpoena in specified ways,

depending upon the type of warrant or subpoena.¹⁶ They also state that, if an officer orders staff to provide immediate access to facilities, court staff should not refuse the officer's order or attempt to physically interfere. The purpose of these model policies is much the same as the purpose behind the privilege against civil arrest: to prevent the chilling effect that immigration enforcement actions at courthouses may have on noncitizens' participation in the court process and access to justice.

5. SB 873 strengthens these protections to protect and preserve the integrity of California court proceedings

Despite these laws, and at times in clear violation of them, the federal government has continued to conduct immigration enforcement activities and detain individuals at courthouses across the state. SB 873 aims to strengthen the laws to better prevent this and ensure access to the courts and the rights of all Californians. It expands upon the prohibition against civil arrest in SB 668 to prohibit a person from being subject to civil arrest in, as well as while traveling to or from, a courthouse for any lawful activity. It specifies that someone is presumed to be covered by this prohibition for lawful activity while they are present at a courthouse. SB 873 specifies that it does not narrow or lessen the common law privilege against civil arrest, and does not apply to arrests made pursuant to a valid judicial warrant.

SB 873 clarifies its prohibition in a variety of ways. It specifies that "civil arrest" for its provisions means a local, state, or federal law enforcement agency, its officers, or any other government entity taking an individual into custody for an alleged violation of civil law. The previous civil arrest provisions of the civil code created by SB 668 did not include any such definition of civil arrest. SB 873 also defines "courthouse" to include the sidewalks, parkways, and streets surrounding the court facilities and its premises, and any public way within 1,000 feet of the court facilities.

To provide a remedy for its prohibition, SB 873 permits the Attorney General to bring a civil action for equitable and declaratory relief when the Attorney General has reasonable cause to believe that a violation of its provisions has occurred, or is imminent. In addition, it permits a person who is subjected to a civil arrest to bring a civil action for appropriate equitable and declaratory relief, including statutory penalties of \$10,000. If an individual is successful in such a suit, SB 873 also permits them to recover court costs and reasonable attorney's fees.

SB 668 also requires the Judicial Council to promulgate rules regarding immigration enforcement activities at courthouses. These rules would ensure that any local, state, or federal law enforcement officer or representative, while acting in an official capacity,

¹⁶ Office of Attorney General, *Securing Equal Access to Justice for All: guidance and model policies to assist California's Superior Courts in responding to immigration issues* (Dec. 2024), available at <https://oag.ca.gov/immigrant>.

who enters a courthouse to arrest an individual must identify themselves to uniformed court personnel, state their specific law enforcement purpose and the law enforcement action intended to be taken, and provide court personnel with a copy of a valid judicial warrant concerning the intended enforcement action. The rules also must ensure that, if there is an attorney representing a person named in any warrant held by the law enforcement officer intending on arresting that individual, that the attorney have the right to review the warrant first. These requirements would be in addition to, and do not conflict with, the policies courthouses are required to implement from the Attorney General's model policies. Lastly, the rules must require courts to maintain data regarding law enforcement activity at courthouses and provide this data to Judicial Council. With this data, Judicial Council would be required to annually compile and publish on its website and the website of the courts a report regarding law enforcement agencies' activities at courthouses, aggregated by county.

6. Considerations

Similar laws have grown in popularity and number across the states in recent years. In 2020, New York passed the "Protect Our Courts Act" (POCA), which prohibited a person at, or traveling to or from, New York state courthouses from being subject to civil arrest, unless the officer conducting the arrest has a judicial warrant or order.¹⁷ POCA makes it a contempt of the court and false imprisonment to violate that prohibition, and permits a person arrested in violation of that prohibition and New York's Attorney General to bring a civil action to enforce the prohibition. In July 2025, the federal government challenged New York's law under preemption under the Supremacy Clause of the U.S. Constitution and the intergovernmental immunities doctrine. However, on November 17, 2025 Judge Mae D'Agostino of the U.S. Court of the Northern District Court of New York dismissed the suit, finding that the federal government had not made plausible claims that the New York law violated the intergovernmental immunities doctrine or was preempted.¹⁸

SUPPORT

California Public Defenders Association (co-sponsor)
California Rural Legal Assistance Foundation (co-sponsor)
Western Center on Law & Poverty (co-sponsor)
Access Reproductive Justice
California Center for Movement Legal Services
California Partnership to End Domestic Violence
California Public Defenders Association
California Rural Legal Assistance, Inc.
Center for Gender & Refugee Studies-California

¹⁷ N.Y. CLS Civ. Rights Law § 28.

¹⁸ *United States v. New York*, 2025 U.S. Dist. LEXIS 225875.

Communities for a Better Environment
Consumer Attorneys of California
Courage California
Disability Rights California
Disability Rights Education & Defense Fund (DREDF)
Housing and Economic Rights Advocates (HERA)
Legal Aid Association of California
Legal Aid Foundation of Los Angeles
Legal Aid Society of San Diego
National Housing Law Project
PDA - CA
Public Interest Law Project
Public Advocates
Public Counsel
Tenants Together

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation:

SB 915 (Menjivar, 2026) requires a health care provider entity, upon arrival of a patient accompanied by an immigration enforcement officer, to verify and document the identities and agencies of the accompanying immigration enforcement officers, and requires health care provider entity personnel to ask that the officer step out of the patient's room when discussing any matters pertaining to patient care or providing medical care or physical examinations. SB 915 also prohibits an immigration enforcement officer from having any authority to participate in or influence medical decisions for the patient, and prohibits a health care provider entity from using blackout policies when admitting a patient accompanied by an immigration enforcement officer, as defined. SB 915 is currently pending before this Committee and is set to be heard the same day as this bill.

AB 1807 (Gabriel, 2026) prohibits the use of state-owned property for purposes of immigration enforcement, including for staging, assembling, mobilizing, or deploying vehicles, equipment, or personnel, and requires the Department of General Services to identify state-owned property previously or likely to be used for immigration enforcement purposes. It also requires state agencies to take various actions to limit access to such state-owned property for immigration enforcement purposes, as specified. AB 1807 is currently pending before the Assembly Committee on Governmental Organization.

Prior Legislation:

AB 49 (Muratsuchi, Ch. 122, Stats. 2025) prohibited school officials and employees of a local educational agency, or employees of a day care facility, from allowing a federal immigration officer to enter a schoolsite or day care facility for any purpose without providing valid identification, a written statement of purpose, and a valid judicial warrant, and without receiving approval from specified school officials, and limited an approved official's access to only facilities where students or children are not present.

AB 668 (Gonzalez, Ch. 787, Stats. 2019) codified the common law privilege against civil arrest, providing that no person may be subject to civil arrest in a courthouse while attending a court proceeding or having legal business in the courthouse, and clarified the power of judicial officers to prohibit activities that threaten access to the courts, including by protecting the privilege from arrest.

SB 54 (De León, Ch. 495, Stats. 2017) prohibited state and local law enforcement agencies from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, subject to exception, and required the issuance and adoption by various entities of model policies limiting assistance with immigration enforcement and limiting the availability of information for immigration enforcement, including courthouses.
