
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

SB 873 (Reyes) - Courthouses: privilege from civil arrest

Version: March 25, 2026

Urgency: No

Hearing Date: May 4, 2026

Policy Vote: JUD. 11 - 2

Mandate: No

Consultant: Bob Franzoia

Bill Summary: SB 873 would prohibit a person traveling to or from, or while present at, a courthouse for any lawful activity from being subject to civil arrest. This bill would provide the Attorney General (AG) and the person subject to civil arrest the authority to bring a civil action for a violation of that prohibition. The Judicial Council of California (JCC) would be required to promulgate various rules and to annually report regarding related law enforcement activities at courthouses.

Fiscal Impact: Unknown, potentially significant costs to the AG to bring civil actions (General Fund).

Unknown, significant to major workload to the courts to track and submit data to the JCC. Significant one time costs to the JCC to promulgate rules. Significant to major ongoing costs to the JCC to track and report specified law enforcement activities (Trial Court Trust Fund).

Background: In the past year, there have been numerous reports of Immigration and Customs Enforcement agents detaining individuals for immigration enforcement at state courthouses across California.

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. 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court for a civil suit, the practice of civilly arresting individuals in order to initiate a civil action has since been replaced by service of process, or the process of delivering to parties copies of the summons and complaint to notify them of the case.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.

Proposed Law: The JCC shall promulgate necessary rules to ensure all of the following:

(1) 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 shall comply with both of the following:

(A) Identify themselves to uniformed court personnel and state their specific law enforcement purpose and the intended enforcement action to be taken.

(B) Provide court personnel with a copy of a valid judicial warrant concerning the intended enforcement action to be taken.

(2) If there is an attorney representing a person named in the warrant in any capacity, that attorney shall have the right to review the warrant.

(3) Requiring courts to maintain data regarding activities undertaken by law enforcement personnel at courthouses and provide that data to the Judicial Council.

Staff Comments: While the JCC recently enacted a rule of court (Rule 10.440 Reporting civil arrests in court facilities) that requires courts to report on civil arrests and would capture any Immigration and Customs Enforcement arrests, the language in this bill is broader and would require more data to be collected outside of that rule's requirements, imposing additional burdens and workloads on the courts. For example, Civil Code 43.54 (g) (3) (C), as added by this bill, defines walkways of the courts to include walkways within 1,000 feet of the court facilities which could conflict with individual courthouses and Memorandums of Understanding with Sheriffs. Staff Notes aligning the provisions of the bill with the rule of court may reduce conflicts and costs.

This bill may result in new legal defense costs if the provisions of this bill result in court staff or judicial officers being prosecuted for interfering with federal law enforcement to comply with state law or for failing to follow state law for fear of interfering with federal law enforcement. This would be a state cost as these people were performing that work in their official employment capacity.

Additionally, the provisions of the bill relating to court security may impact Memorandums of Understanding with Sheriffs. Court security funding is provided directly to the Sheriffs and not to the courts and this would potentially expand their responsibilities without providing any additional funding.