

THIRD READING

Bill No: SB 873
Author: Reyes (D) and Umberg (D), et al.
Amended: 5/21/26
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-2, 4/21/26
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Laird, Reyes, Stern, Wahab,
Weber Pierson, Wiener
NOES: Niello, Valladares

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/14/26
AYES: Cervantes, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

SUBJECT: Courthouses: privilege from civil arrest

SOURCE: California Public Defenders Association
California Rural Legal Assistance Foundation
Inland Coalition for Immigrant Justice
Western Center on Law and Poverty

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 on its website a report regarding civil arrests at courthouses pursuant to Rule 10.440 of the California Rules of Court, as specified.

Senate Floor Amendments of 5/21/26 add a coauthor, eliminate the requirement that Judicial Council promulgate necessary rules to require courts to maintain data regarding activities undertaken by law enforcement personnel at courthouses and provide that data to the judicial council, and amend the requirement that Judicial Council annually prepare a report to require the report include statistics of the

information related to civil arrests at courthouses reported to Judicial Council pursuant to Rule 10.440 of the California Rules of the Court.

ANALYSIS:

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 of Civil Procedure (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. (Civil (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; and
 - b) Any attorney, if any, of a person named in the warrant has the right to review the warrant.
- 11) Requires the Judicial Council to annually prepare a report compiling statistics, aggregated by county, of the information related to civil arrests reported to the Judicial Council pursuant to Rule 10.440 of the California Rules of Court.
- 12) Requires the Judicial Council to publicly post this report on its public internet website.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee;

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).

SUPPORT: (Verified 5/20/26)

California Public Defenders Association (co-source)
California Rural Legal Assistance Foundation (co-source)
Inland Coalition for Immigrant Justice (co-source)
Western Center on Law & Poverty (co-source)
Access Reproductive Justice
Bay Area Legal Aid
California Center for Movement Legal Services
California Faculty Association
California Indian Legal Services
California Partnership to End Domestic Violence
California Rural Legal Assistance, Inc.
Center for Gender & Refugee Studies–California
Central California Legal Services
Communities for a Better Environment
Community Legal Aid SoCal
Consumer Attorneys of California
Courage California
Disability Rights California
Disability Rights Education & Defense Fund
Greater Bakersfield Legal Assistance, Inc.
Housing and Economic Rights Advocates
Inland Counties Legal Services, Inc.
Law Foundation of Silicon Valley
Legal Aid Association of California
Legal Aid Foundation of Los Angeles
Legal Aid of Sonoma County
Legal Aid Society of San Diego
Legal Services of Northern California

Los Angeles County
Multi-faith Action Coalition
National Housing Law Project
Neighborhood Legal Services of Los Angeles County
Oakland Privacy
California Project Directors Association
Public Interest Law Project
Public Advocates
Public Counsel
Tenants Together

OPPOSITION: (Verified 5/20/26)

California State Sheriffs' Association
San Bernardino County Sheriff's Department

ARGUMENTS IN SUPPORT:

According to the California Public Defenders Association, which is a co-source of SB 873:

Since the Trump administration rescinded its longstanding sensitive-locations policy in January 2025, ICE agents have conducted arrests at and near California state superior courthouses with alarming and growing frequency. This is not a peripheral concern: it is happening at state courthouses across California and it is happening with impunity. In some instances, agents have entered courthouse buildings, in blatant violation of existing state law. In many more, they wait on courthouse steps, in parking lots, and at building exits, exploiting a gap in current law that does not protect the grounds surrounding a courthouse.

The consequences for the justice system are serious and immediate. Defendants, families, and witnesses are making decisions about whether to appear in court based on fear of what will happen when they get there. Cases are being delayed. Evidence is being lost. Defendants are accepting pleas they would otherwise contest simply to minimize their time in a courthouse. Witnesses are not appearing. A courthouse that a significant portion of the community fears to enter cannot administer justice.

Existing California law prohibits civil arrests inside courthouse buildings, but provides no protection for the grounds, parking lots, and approaches

where the majority of these arrests are now occurring. ICE has adapted its tactics precisely to exploit this gap. SB 873 closes it by establishing a 1,000-foot enforcement-free zone around state courthouses and by requiring a valid judicial warrant, not an administrative ICE warrant, for any civil arrest within that zone.

The distinction between a judicial warrant and an administrative immigration warrant matters enormously. An administrative warrant is issued by an immigration officer, not a judge, and is *not* based on a judicial finding of probable cause. It is not the kind of legal process that should authorize the disruption of state judicial proceedings. SB 873 restores the appropriate standard: if federal agents wish to make a civil arrest in or around a California courthouse, they must obtain authorization from a court.

The bill also requires agents to identify themselves to court personnel. This is a modest but meaningful protection; it ensures that court administrators are aware of enforcement activity in their facilities, can implement their own policies, and can protect the integrity of proceedings already underway.

For CPDA's members, these arrests have a direct and corrosive effect on the ability to represent clients. Effective representation requires that clients and witnesses appear in court. When clients, their families, and witnesses are arrested on their way in or out of a hearing, public defenders lose the ability to consult with them, present their cases, and protect their rights. When clients are too afraid to appear, the consequences are equally grave. The right to counsel guaranteed by the Sixth Amendment cannot be exercised by someone who does not feel safe entering the building.

Courthouses must be places where all Californians can participate in the justice system without fear. SB 873 is a targeted and necessary step toward restoring access to our own state court system for all Californians.

ARGUMENTS IN OPPOSITION:

According to the California State Sheriff's Association, which opposes SB 873:

We are concerned that this bill places sheriffs' officials in a position of unavoidable conflict between state and federal law. Under SB 873, county sheriffs would be required to assess federal enforcement actions in the context of state law requirements, seek compliance with a state-imposed judicial warrant requirement, and likely delay or deny federal arrest activity

occurring in or around courthouses. In practice, this will require sheriffs to choose between complying with federal law and disregarding state law, or obeying state law in a manner that puts them in direct conflict with federal law.

Additionally, the bill significantly expands the prohibition of making a civil arrest in a courthouse. The definition of “courthouse” under SB 873 includes any sidewalk, parkway, or street surrounding the court facilities and its premises and any public way within 1,000 feet of the court facilities. A violation of this overly broad prohibition is subject to a private right of action for equitable and declaratory relief as well as actual damages and statutory damages of \$10,000.

Prepared by: Ian Dougherty / JUD. / (916) 651-4113
5/22/26 17:16:38

**** **END** ****