

SENATE THIRD READING
SB 873 (Reyes and Umberg)
As Amended August 20, 2026
Majority vote

SUMMARY

Expands existing protections against civil arrests at courthouses.

Major Provisions

- 1) Prohibits someone from being subject to civil arrest while traveling to, while present at, or while traveling from a courthouse for any lawful activity. Establishes a presumption that persons are traveling to, engaging in, or traveling from, lawful activity while present at a courthouse.
- 2) Authorizes a court to issue appropriate judicial orders to protect the privilege from civil arrest under this section or common law, in addition to the powers available pursuant to Section 177 of the Code of Civil Procedure.
- 3) *Establishes that a civil arrest in violation of the bill's provisions or the common law privilege protecting persons from civil arrest while at, or coming to or from, a courthouse, constitutes the tort of false imprisonment or false arrest if the arresting person or persons knew or reasonably should have known that the person arrested was going to, remaining at, or returning from the court for any lawful activity. Makes each person who violates the bill's provisions, or assists in a violation, liable for civil damages for false imprisonment or false arrest, including actual damages and statutory damages of \$10,000.*
- 4) Entitles a party in a successful action to enforce liability for a violation to recover court costs and reasonable attorney's fees.
- 5) Requires court security personnel to do both of the following when court security personnel are aware that any representative of a local state, or federal law enforcement agency, while acting in an official capacity, enter a courthouse:
 - a) Request the law enforcement representative or representatives to identify themselves and to state their specific law enforcement purpose and the intended enforcement action to be taken.
 - b) Request from the law enforcement representative or representatives a copy of a valid judicial warrant concerning the intended enforcement action to be taken.
- 6) If court security personnel **are** aware that there is an attorney representing a person named in the judicial warrant in any capacity, requires court security personnel to request the law enforcement representative afford that attorney the right to review the warrant.

COMMENTS

The English common law "privilege from arrest" apparently dates back to at least the late 14th century, when references to it appear in the Year Books (English legal reports) from the reign of Henry IV. (*Sampson v. Graves* (1924) 203 NYS 729, 730.) When William Blackstone wrote his

Commentaries on the Laws of England in the late 18th century (1765-1769), the privilege was already well established.

Over time, despite its storied history, the privilege from civil arrest fell out of use, largely because "civil arrest" had become less common. With the onset of the first Trump administration in 2017, however, came an increase in immigration enforcement activity, which largely includes civil arrests and detentions. In 2019, the common law protection against civil arrest in courthouses was codified via AB 668 (Gonzalez), Chapter 787, Statutes of 2019. As enacted and currently in print today, the statute prohibits a person from being subject to civil arrest in a courthouse while attending a court proceeding or having legal business in the courthouse. (Government Code Section 43.54.)

In light of an even more brutal immigration enforcement campaign at the hands of the second Trump Administration, this bill seeks to strengthen the codified prohibition in Government Code Section 43.54.

First, SB 873 expands the physical scope of the protection provided under Section 43.54. Currently, Section 43.54 provides protection against civil arrest to individuals "in a courthouse while attending a court proceeding or having legal business in a courthouse." SB 873 expands the protection provided by Section 43.54 to apply to individuals "traveling to or *while* traveling from a courthouse for any lawful activity." Further, the bill establishes a presumption that "persons are traveling to, engaging in, or traveling from, lawful activity while present at a courthouse." Expanding the statute's scope to capture movement coming to and from a courthouse reflects the original common law privilege, as described above.

Existing law does not currently provide any particular enforcement mechanism available to an individual who is subjected to a civil arrest at a courthouse. Recognizing that a statute is often only as good as its enforcement, this bill *establishes that any civil arrest in violation of either this bill's provisions or the common law privilege constitutes false imprisonment or false arrest if the arresting person knew or reasonably should have known that the person arrested was going to, remaining at, or returning from court for any lawful activity and would make the violator liable for actual damages and statutory damages of \$10,000. The bill also authorizes a successful party to recover court costs and reasonable attorney's fees.*

Finally, the bill requires the Judicial Council to prepare an annual report compiling statistics, aggregated by county, of the information related to civil arrests already required to be reported to it by Rule 10.440 of the California Rule of Court. The Judicial Council is then directed to publicly post the report on its website. In April of this year, the Judicial Council approved a new rule to require courts to make regular reports to the Judicial Council of civil arrests that occur at the court facilities, if known, including the location of the arrest at the facility, the law enforcement agency that conducted the arrest, whether any individuals were taken into custody, and if the arresting officer presented a judicial warrant. (Judicial Council of California, *Judicial Council Approves Mandatory Reporting of Civil Arrests in Court Facilities* (April 24, 2026) available at: <https://courts.ca.gov/news/judicial-council-approves-mandatory-reporting-civil-arrests-court-facilities>.)

According to the Author

SB 873 will protect the legal process for all in California by preventing indiscriminate arrests by Immigration and Customs Enforcement (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.

Arguments in Support

This bill is sponsored by the California Public Defenders Association (CPDA), California Rural Legal Assistance Foundation, Western Center on Law and Poverty, and the Inland Coalition for Immigrant Justice. It is supported by a coalition of civil rights organizations, legal services providers, and labor unions. In support of the bill, the California Public Defenders Association submits:

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

This bill is opposed by the California State Sheriffs' Association, the Riverside County Sheriff's Office, and the San Bernardino County Sheriff's Department. The San Bernardino County Sheriff's Department writes:

SB 873 Impermissibly Attempts to Regulate Federal Officers

As amended, SB 873 applies to "any representative of a local, state, or federal law enforcement agency" and imposes state-created requirements before an arrest may occur in or around a courthouse, including the presentation of a "valid judicial warrant" and compliance with state mandated procedures.

This is a direct attempt to regulate how federal officers perform their duties. Under the Supremacy Clause, such regulation is impermissible. The United States Supreme Court has long held that states may not "retard, impede, burden, or in any manner control" federal operations (*McCulloch v. Maryland* (1819) 17 U.S. 316). From *McCulloch v. Maryland* (1819), which prohibits states from impeding federal operations, to *In re Neagle* (1890) and *Arizona v. United States* (2012), the Supreme Court has consistently held that states may not impose conditions, restrictions, or liabilities that interfere with federal officers performing their lawful duties.

This is particularly problematic in the context of immigration enforcement, where federal authority is both exclusive and plenary, and where Congress has established a comprehensive enforcement framework that does not require compliance with state-imposed warrant standards. SB 873 does exactly that. It conditions federal enforcement activity on compliance with state law and subjects that activity to state civil liability. That is not permissible under any established Supremacy Clause doctrine.

[...]

SB 873 Is Constitutionally Defective Under Established Federal Law

SB 873 is not merely problematic; it is legally vulnerable.

The bill's attempt to impose warrant requirements and procedural conditions on federal officers raises multiple constitutional defects:

- 1) Intergovernmental Immunity: States cannot regulate or control the federal government or its officers acting within the scope of their duties
- 2) Obstacle Preemption: States may not create barriers that interfere with Congress's chosen framework for federal enforcement, particularly in areas such as immigration where federal authority is dominant
- 3) Direct Conflict: Federal law authorizes enforcement actions, including civil immigration arrests, under standards that do not require a state-defined "judicial warrant" Federal agencies routinely operate under administrative warrants and statutory authority. SB 873's requirement that a "valid judicial warrant" be presented before action may occur is incompatible with federal law and will function as a categorical barrier in many cases. Courts have repeatedly rejected similar attempts by states to impose conditions on federal operations. SB 873 will invite immediate legal challenge and is unlikely to withstand constitutional scrutiny.

The Bill Expands Liability While Removing Control

SB 873 compounds its constitutional defects by creating a private right of action with statutory damages of \$10,000 per violation and attorney's fees. This creates a powerful incentive for litigation and ensures that counties will be named in lawsuits, even when the underlying enforcement action is conducted by federal agencies over which counties have no authority or control.

At the same time, the bill expands the definition of "courthouse" to include areas within 1,000 feet and travel to and from court, dramatically increasing the geographic scope of potential liability.

Counties are thus exposed to financial risk without corresponding authority to control the underlying conduct.

SB 873 Undermines Public Safety by Disrupting Controlled Enforcement Environments

From an operational standpoint, SB 873 is fundamentally flawed.

Courthouses are among the most controlled environments in the public safety system. Individuals are identified, screened, and present under lawful process. These are settings where enforcement can occur with predictability, documentation, and reduced risk.

When enforcement is restricted in controlled environments, it does not disappear; it shifts into neighborhoods and into the public view. In doing so, it drives enforcement into less controlled settings and toward tactics that many Californians and many in the law enforcement profession find inconsistent with best practices for public safety. These conditions increase risk to officers, bystanders, and the individuals involved.

SB 873 will accelerate that shift, producing the very outcomes it purports to prevent.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Costs of an unknown, but potentially significant amount to the Department of Justice (General Fund). The Civil Rights Enforcement Section anticipates workload costs to advise court administrators and the public on compliance and to litigate violations, and the Police Practices Section anticipates workload costs to investigate allegations that state and local law enforcement entities have violated the bill's provisions. The Department of Justice (DOJ) indicates the number of additional deputy attorneys general and support staff needed cannot be determined, in part because the range of circumstances the bill prohibits as civil arrests in or near a courthouse is not yet clear.
- 2) Minor and absorbable workload to the Judicial Council (Trial Court Trust Fund) to annually prepare and publish the required report on civil arrests, as the report aligns with existing reporting requirements under Rule 10.440 of the California Rules of Court. The courts expect workload impacts of an unknown, but likely minor, amount on court security personnel to inquire into the identity and purpose of law enforcement officers and to request judicial warrants as required by this bill. Individual courts may also incur absorbable costs to update memorandums of understanding with their local sheriff's office, which generally provides court security.

VOTES**SENATE FLOOR: 29-7-4**

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Choi, Grove, Jones, Ochoa Bogh, Seyarto, Valladares

ABS, ABST OR NV: Dahle, Gonzalez, Niello, Strickland

ASM JUDICIARY: 9-3-0

YES: Kalra, Bauer-Kahan, Bryan, Connolly, Harabedian, Pacheco, Papan, Stefani, Zbur

NO: Macedo, Dixon, Sanchez

ASM APPROPRIATIONS: 11-4-0

YES: Wicks, Arambula, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

NO: Hoover, Dixon, Ta, Tangipa

UPDATED

VERSION: August 20, 2026

CONSULTANT: Manuela Boucher / JUD. / (916) 319-2334

FN: 0003876