

UNFINISHED BUSINESS

Bill No: SB 873
Author: Reyes (D) and Umberg (D), et al.
Amended: 8/20/26
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

SENATE FLOOR: 29-7, 5/26/26

AYES: 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

NOES: Alvarado-Gil, Choi, Grove, Jones, Ochoa Bogh, Seyarto, Valladares

NO VOTE RECORDED: Dahle, Gonzalez, Niello, Strickland

ASSEMBLY FLOOR: Passed, 8/25/26

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; specifies that a civil arrest in violation of this prohibition or the common law

privilege against civil arrest 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 court for any lawful activity; makes a person who violates these provisions or assists in their violation liable for actual damages and statutory damages of \$10,000; 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; and requires court security personnel to take specified actions when they are aware that a representative of a law enforcement agency has entered a courthouse.

Assembly Amendments remove the provision that provides that the Attorney General may bring a civil action to obtain appropriate equitable and declaratory relief for a violation, amend and add various definitions; require court security personnel to take specified actions when they are aware that a representative of a law enforcement agency has entered a courthouse; specify that a civil arrest in violation of its provisions or the common law privilege protecting persons from civil arrest constitutes the tort of false imprisonment or false arrest if the arresting person knew or reasonably should have known that the person was arrested going to, remaining at, or returning from court for any lawful activity; and provides that each person who violates or assists in violating its provisions is liable for actual damages and statutory damages of \$10,000.

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) Makes various findings and declarations regarding importance of access to the courts and protecting persons attending court from civil arrest.
- 2) Repeals the provisions described in 6), above.
- 3) Provides that a person shall not be subject to civil arrest while present at or traveling to or from a courthouse for any lawful activity. Specifies that it shall be presumed that a person traveling to or from, or present at, a courthouse is engaging in lawful activity.
- 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) Specifies that, except as specified, a civil arrest in violation of these provisions or the common law privilege against civil arrest 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 court for any lawful activity.
- 8) Specifies that each person who violates these provisions, or assists in a violation, is liable for civil damages for false imprisonment or false arrest, including actual damages and statutory damages of \$10,000. Permits a successful party to recover court costs and reasonable attorney's fees.
- 9) Defines, for the purposes of the above-described provisions, the following:
 - a) "arrest" to mean the taking of an individual into custody;
 - b) "civil arrest" to mean the arrest of, or a communicated intent to arrest, an individual for an alleged violation of civil law;
 - c) "court proceeding" to mean any matter, hearing, or other judicial business conducted by, or under the supervision of, a California superior court, Court of Appeal, or the Supreme Court, including but not limited to, trials, hearings, arraignments, case management conferences, and clerks' office transactions;
 - 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 sideway, parkway, or street; and
 - e) "court security personnel" to mean peace officers and security guards, as described in specified law, who are assigned to perform court security functions under any employment, contractual, or memorandum of understanding agreement;
 - f) "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 assisting a person who is going to,

remaining at, or returning from a courthouse, as specified; the exercise of any constitutional rights at a courthouse; or otherwise being lawfully present at a courthouse.

- 10) Requires, when court security personnel are aware that any representative of a law enforcement agency, while acting in an official capacity, has entered a courthouse, that the court security personnel:
 - a) Request that the law enforcement representative or representatives identify themselves and state their specific law enforcement purpose and intended enforcement action to be taken; and
 - b) Request that the law enforcement representative or representatives provide a copy of a valid judicial warrant concerning the intended enforcement action to be taken.
- 11) Requires, when court security personnel is aware that there is an attorney representing a person named in the judicial warrant in any capacity, that court security personal request the law enforcement representative afford that attorney the right to review the warrant.
- 12) Specifies that an action or proceeding for the tort of false imprisonment or false arrest shall not be commenced against a court, a judicial officer, or any trial court employee, as defined, acting lawfully pursuant to their duty to maintain safety and order in the courts.
- 13) For the purposes of 10) through 12), above, defines “court security personnel” to have the same meaning as provided in Civil Code section 43.54.
- 14) 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.
- 15) 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 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. 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.

SUPPORT: (Verified 8/25/26)

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
 California Center for Movement Legal Services
 California Domestic Workers Coalition
 California Faculty Association
 California Partnership to End Domestic Violence
 California Project Directors Association
 California Rural Legal Assistance, Inc.
 Center for Gender & Refugee Studies—California
 Communities for a Better Environment
 Consumer Attorneys of California
 Courage California
 Disability Rights California
 Disability Rights Education & Defense Fund
 Housing and Economic Rights Advocates
 Judicial Council of California
 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
Los Angeles County
Multi-faith Action Coalition
National Housing Law Project
Oakland Privacy
Public Interest Law Project
Public Advocates
Public Counsel
Tenants Together

OPPOSITION: (Verified 8/25/26)

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
8/25/26 18:52:15

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