

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0577.01 Jacob Baus x2173

SENATE BILL 20-083

SENATE SPONSORSHIP

Gonzales,

HOUSE SPONSORSHIP

Herod,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING PROHIBITING CIVIL ARREST WHILE ON COURTHOUSE
102 GROUND.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill protects an individual from civil arrest while the person is present at a courthouse or on its environs, or while going to, attending, or coming from a court proceeding. A judge or magistrate may issue a writ of protection to prohibit a civil arrest, but a writ of protection is not required for the protection to apply.

The bill provides various remedies for violation of the protection

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

provided by the bill.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 4 to article
3 1 of title 13 as follows:

4 PART 4

5 PROTECT COURT ACCESS

6 **13-1-401. Legislative declaration.** (1) THE GENERAL ASSEMBLY
7 HEREBY FINDS AND DECLARES THAT:

8 (a) ACCESS TO COURTS IS A CORNERSTONE OF COLORADO'S
9 REPUBLICAN FORM OF GOVERNMENT AND IS THEREFORE A MATTER OF
10 STATEWIDE CONCERN. CIVIL ARREST OF A PERSON AT A COURTHOUSE OR
11 ON ITS ENVIRONS, OR WHILE GOING TO, ATTENDING, OR COMING FROM A
12 COURT PROCEEDING, THREATENS THE VALUES OF PUBLIC ACCESS AND THE
13 CORE FUNCTIONS OF COURTS AND IS CONSIDERED AN UNREASONABLE AND
14 UNLAWFUL SEIZURE WHETHER UNDERTAKEN BY A LOCAL, STATE, OR
15 FEDERAL OFFICER.

16 (b) COURTS HAVE THE AFFIRMATIVE OBLIGATION TO ASSERT THEIR
17 POWERS TO ENSURE ORDER AND EFFICIENT FUNCTIONING IN THEIR
18 PROCEEDINGS THROUGH EXERCISING THEIR CONTEMPT POWER AND
19 ISSUING WRITS IN ORDER TO PROTECT THE DIGNITY, INDEPENDENCE, AND
20 INTEGRITY OF PROCEEDINGS;

21 (c) THERE EXISTS FROM ENGLISH COMMON LAW A PRIVILEGE FROM
22 CIVIL ARREST AT A COURTHOUSE AND ON ITS ENVIRONS, OR WHILE GOING
23 TO, ATTENDING, OR COMING FROM A COURT PROCEEDING. THE COMMON
24 LAW OF ENGLAND IS "THE RULE OF DECISION, AND SHALL BE CONSIDERED
25 AS OF FULL FORCE UNTIL REPEALED BY LEGISLATIVE AUTHORITY"

1 PURSUANT TO SECTION 2-4-211, AND THE COMMON LAW PRIVILEGE FROM
2 CIVIL ARREST HAS NOT BEEN LEGISLATIVELY REPEALED.

3 (d) THE GENERAL ASSEMBLY HAS THE POWER TO PROTECT
4 COLORADO'S COURT PROCEEDINGS IN ORDER TO PRESERVE COLORADO'S
5 REPUBLICAN FORM OF GOVERNMENT AND HAS PREVIOUSLY CODIFIED THE
6 PRIVILEGE FROM ARREST IN SPECIFIC CIRCUMSTANCES TO PROTECT THE
7 PROPER FUNCTIONING OF COURTS; AND

8 (e) THIS ACT CLARIFIES COLORADO LAW WITH RESPECT TO COURT
9 ACCESS AND JUDICIAL POWER TO ENFORCE THE PROTECTION IN ORDER TO
10 ENSURE COURT ACCESS AND TO PREVENT INTERRUPTION OF THE
11 ADMINISTRATION OF JUSTICE, AND CLARIFIES THAT THE PROTECTION
12 EXTENDS TO PROCEEDINGS CONDUCTED UNDER THE AUTHORITY OF A
13 COURT, INCLUDING, BUT NOT LIMITED TO, PROBATION AND PRETRIAL
14 SERVICES.

15 (2) NOTHING IN THIS PART 4 NARROWS, OR IN ANY WAY LESSENS,
16 ANY RIGHTS OR PROTECTIONS FROM CIVIL ARREST AT A COURTHOUSE OR
17 ON ITS ENVIRONS, OR WHILE GOING TO, ATTENDING, OR COMING FROM A
18 COURT PROCEEDING, UNDER COMMON LAW, STATUTE, THE UNITED STATES
19 CONSTITUTION, THE STATE CONSTITUTION, OR THE REMEDIES AVAILABLE
20 FOR VIOLATIONS OF THOSE RIGHTS OR PRIVILEGES.

21 **13-1-402. Definitions.** AS USED IN THIS PART 4, UNLESS THE
22 CONTEXT OTHERWISE REQUIRES:

23 (1) "CIVIL ARREST" MEANS AN ARREST THAT IS SOLELY OR
24 PRIMARILY IN CONNECTION WITH A CIVIL PROCEEDING.

25 (2) "COURT" MEANS A COURT OF THE STATE OF COLORADO OR ITS
26 COUNTIES OR MUNICIPALITIES.

27 (3) "COURTHOUSE" MEANS THE ENTIRETY OF A BUILDING IN WHICH

1 A COURT IS LOCATED INCLUDING, BUT NOT LIMITED TO, A COURTROOM,
2 HALLWAY, RESTROOM, OR LOBBY.

3 (4) "COURT PROCEEDING" MEANS A PROCEEDING CONDUCTED BY
4 A COURT OR UNDER THE AUTHORITY OF A COURT, INCLUDING, BUT NOT
5 LIMITED TO:

6 (a) ACCESSING A SERVICE OR CONDUCTING BUSINESS WITH A
7 COURT;

8 (b) A CRIMINAL PROCEEDING;

9 (c) A CIVIL PROCEEDING;

10 (d) A GRAND JURY PROCEEDING;

11 (e) A CIVIL PROTECTION ORDER PROCEEDING;

12 (f) AN ARBITRATION;

13 (g) A DEPOSITION;

14 (h) A PRETRIAL SERVICES APPOINTMENT; OR

15 (i) A PROBATION SERVICES APPOINTMENT.

16 (5) "ENVIRONS" MEANS THE VICINITY SURROUNDING A
17 COURTHOUSE, INCLUDING, BUT NOT LIMITED TO, A SIDEWALK, DRIVEWAY,
18 ENTRYWAY, GREEN SPACE, OR PARKING AREA SERVING THE COURTHOUSE.

19 **13-1-403. Prohibition of civil arrest - writ of protection -**
20 **procedure.** (1) A PERSON SHALL NOT BE SUBJECT TO CIVIL ARREST WHILE
21 THE PERSON IS PRESENT AT A COURTHOUSE OR ON ITS ENVIRONS, OR WHILE
22 GOING TO, ATTENDING, OR COMING FROM A COURT PROCEEDING.

23 (2) (a) A JUDGE OR MAGISTRATE MAY ISSUE A WRIT OF
24 PROTECTION TO PROHIBIT A CIVIL ARREST PURSUANT TO SUBSECTION (1)
25 OF THIS SECTION. A JUDGE OR MAGISTRATE MAY INCORPORATE THE WRIT
26 OF PROTECTION IN OTHER REGULARLY ISSUED DOCUMENTS.

27 (b) THE PROTECTION DESCRIBED IN SUBSECTION (1) OF THIS

1 SECTION APPLIES REGARDLESS OF WHETHER A WRIT OF PROTECTION HAS
2 BEEN ISSUED.

3 (3) NOTHING IN THIS SECTION PRECLUDES A CRIMINAL ARREST OR
4 EXECUTION OF A CRIMINAL ARREST WARRANT ISSUED BY A JUDGE OR
5 MAGISTRATE BASED ON PROBABLE CAUSE OF A VIOLATION OF CRIMINAL
6 LAW.

7 (4) AN ON-DUTY LAW ENFORCEMENT OFFICER WHO IS NOT
8 EMPLOYED BY OR CONTRACTED WITH COURTHOUSE SECURITY, OR
9 PARTICIPATING IN A COURT PROCEEDING, SHALL PRESENT CREDENTIALS
10 AND STATE THE PURPOSE OF THE OFFICER'S PRESENCE TO COURTHOUSE
11 SECURITY. COURTHOUSE SECURITY SHALL MAINTAIN A RECORD OF THE
12 INFORMATION AND IF THE PURPOSE IS TO MAKE AN ARREST, NOTIFY A
13 JUDGE OR MAGISTRATE, WHO SHALL ENSURE THE ARREST COMPLIES WITH
14 THIS SECTION.

15 **13-1-404. Remedies.** (1) A PERSON WHO KNOWINGLY VIOLATES
16 SECTION 13-1-403 (1) OR A WRIT OF PROTECTION ISSUED PURSUANT TO
17 SECTION 13-1-403 (2) IS LIABLE FOR DAMAGES IN A CIVIL ACTION FOR
18 FALSE IMPRISONMENT.

19 (2) A PERSON WHO KNOWINGLY VIOLATES SECTION 13-1-403 (1)
20 OR A WRIT OF PROTECTION ISSUED PURSUANT TO SECTION 13-1-403 (2)
21 COMMITS CONTEMPT OF COURT.

22 (3) THE ATTORNEY GENERAL MAY BRING A CIVIL ACTION ON
23 BEHALF OF THE PEOPLE OF THE STATE FOR A VIOLATION OF SECTION
24 13-1-403 TO OBTAIN APPROPRIATE EQUITABLE OR DECLARATORY RELIEF.

25 (4) A PERSON ARRESTED OR DETAINED IN VIOLATION OF SECTION
26 13-1-403 MAY SEEK A WRIT OF HABEAS CORPUS.

27 **13-1-405. Severability.** IF ANY PROVISION OF THIS PART 4 OR ITS

1 APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE
2 INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATION OF THIS
3 PART 4 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR
4 APPLICATION, AND TO THIS END THE PROVISIONS OF THIS PART 4 ARE
5 SEVERABLE.

6 **SECTION 2.** In Colorado Revised Statutes, 13-1-114, **amend**
7 (1)(d); and **add** (1)(e) as follows:

8 **13-1-114. Powers of court.** (1) Every court has power:

9 (d) To control, in furtherance of justice, the conduct of its
10 ministerial officers; AND

11 (e) TO PRESERVE ACCESS TO COURTHOUSES AND COURT
12 PROCEEDINGS, PREVENT INTERRUPTION OF COURT PROCEEDINGS, AND
13 ENFORCE PROTECTION FROM CIVIL ARREST AT A COURTHOUSE OR ON ITS
14 ENVIRONS PURSUANT TO SECTION 13-1-403.

15 **SECTION 3. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety.