Second Regular Session Seventy-second General Assembly STATE OF COLORADO

REVISED

This Version Includes All Amendments Adopted on Second Reading in the Second House

LLS NO. 20-0577.01 Jacob Baus x2173

SENATE BILL 20-083

SENATE SPONSORSHIP

Gonzales, Bridges, Donovan, Fenberg, Fields, Foote, Hansen, Lee, Moreno, Rodriguez, Winter

HOUSE SPONSORSHIP

Herod,

Senate Committees

Judiciary

House Committees

Judiciary

A BILL FOR AN ACT

101 CONCERNING PROHIBITING CIVIL ARREST WHILE ON COURTHOUSE GROUNDS.

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

HOUSE nd Reading Unamended March 4, 2020

SENATE 3rd Reading Unamended February 4, 2020

SENATE Amended 2nd Reading February 3, 2020

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"

-2- 083

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, BUT DOES NOT
25	INCLUDE AN ARREST MADE IN CONNECTION WITH A JUDGE'S CONTEMPT
26	AUTHORITY OR OTHER JUDICIALLY ISSUED PROCESS.
27	(2) "COURT" MEANS A COURT OF THE STATE OF COLORADO OR ITS

-3- 083

1	COUNTIES OR MUNICIPALITIES.
2	(3) "COURTHOUSE" MEANS THE ENTIRETY OF A BUILDING IN WHICH
3	A COURT IS LOCATED INCLUDING, BUT NOT LIMITED TO, A COURTROOM,
4	HALLWAY, RESTROOM, OR LOBBY.
5	(4) "COURT PROCEEDING" MEANS A PROCEEDING CONDUCTED BY
6	A COURT OR UNDER THE AUTHORITY OF A COURT, INCLUDING, BUT NOT
7	LIMITED TO:
8	(a) ACCESSING A SERVICE OR CONDUCTING BUSINESS WITH A
9	COURT;
10	(b) A CRIMINAL PROCEEDING;
11	(c) A CIVIL PROCEEDING;
12	(d) A GRAND JURY PROCEEDING;
13	(e) A CIVIL PROTECTION ORDER PROCEEDING;
14	(f) An arbitration;
15	(g) A DEPOSITION;
16	(h) A PRETRIAL SERVICES APPOINTMENT; OR
17	(i) A PROBATION SERVICES APPOINTMENT.
18	(5) "Environs" means the vicinity surrounding a
19	COURTHOUSE, INCLUDING, BUT NOT LIMITED TO, A SIDEWALK, DRIVEWAY,
20	ENTRYWAY, GREEN SPACE, OR PARKING AREA SERVING THE COURTHOUSE.
21	13-1-403. Prohibition of civil arrest - writ of protection -
22	procedure. (1) A PERSON SHALL NOT BE SUBJECT TO CIVIL ARREST WHILE
23	THE PERSON IS PRESENT AT A COURTHOUSE OR ON ITS ENVIRONS, OR WHILE
24	GOING TO, ATTENDING, OR COMING FROM A COURT PROCEEDING.
25	(2) (a) A JUDGE OR MAGISTRATE MAY ISSUE A WRIT OF
26	PROTECTION TO PROHIBIT A CIVIL ARREST PURSUANT TO SUBSECTION (1)
27	OF THIS SECTION. A JUDGE OR MAGISTRATE MAY INCORPORATE THE WRIT

-4- 083

(b) THE PROTECTION DESCRIBED IN SUBSECTION (1) OF THIS
SECTION APPLIES REGARDLESS OF WHETHER A WRIT OF PROTECTION HAS
BEEN ISSUED.
(3) NOTHING IN THIS SECTION PRECLUDES A CRIMINAL ARREST OR
EXECUTION OF A CRIMINAL ARREST WARRANT ISSUED BY A JUDGE OR
MAGISTRATE BASED ON PROBABLE CAUSE OF A VIOLATION OF CRIMINAL
LAW.
(4) AN ON-DUTY LAW ENFORCEMENT OFFICER WHO IS NOT
EMPLOYED BY OR CONTRACTED WITH COURTHOUSE SECURITY, OR
PARTICIPATING IN A COURT PROCEEDING, SHALL PRESENT CREDENTIALS
AND STATE THE PURPOSE OF THE OFFICER'S PRESENCE TO <u>ANY EXISTING</u>
COURTHOUSE SECURITY, WHO SHALL MAINTAIN A RECORD OF THE
<u>INFORMATION.</u>
(5) The chief judge of any court may enter an order to
(5) The chief judge of any court may enter an order to ensure that arrests made while persons are present at a
ENSURE THAT ARRESTS MADE WHILE PERSONS ARE PRESENT AT A
ENSURE THAT ARRESTS MADE WHILE PERSONS ARE PRESENT AT A COURTHOUSE OR ON ITS ENVIRONS, OR WHILE GOING TO, ATTENDING, OR
ENSURE THAT ARRESTS MADE WHILE PERSONS ARE PRESENT AT A COURTHOUSE OR ON ITS ENVIRONS, OR WHILE GOING TO, ATTENDING, OR COMING FROM A COURT PROCEEDING, COMPLY WITH THIS SECTION.
ENSURE THAT ARRESTS MADE WHILE PERSONS ARE PRESENT AT A COURTHOUSE OR ON ITS ENVIRONS, OR WHILE GOING TO, ATTENDING, OR COMING FROM A COURT PROCEEDING, COMPLY WITH THIS SECTION. 13-1-404. Remedies. (1) A PERSON WHO KNOWINGLY VIOLATES
ENSURE THAT ARRESTS MADE WHILE PERSONS ARE PRESENT AT A COURTHOUSE OR ON ITS ENVIRONS, OR WHILE GOING TO, ATTENDING, OR COMING FROM A COURT PROCEEDING, COMPLY WITH THIS SECTION. 13-1-404. Remedies. (1) A PERSON WHO KNOWINGLY VIOLATES SECTION 13-1-403 (1) OR A WRIT OF PROTECTION ISSUED PURSUANT TO
ENSURE THAT ARRESTS MADE WHILE PERSONS ARE PRESENT AT A COURTHOUSE OR ON ITS ENVIRONS, OR WHILE GOING TO, ATTENDING, OR COMING FROM A COURT PROCEEDING, COMPLY WITH THIS SECTION. 13-1-404. Remedies. (1) A PERSON WHO KNOWINGLY VIOLATES SECTION 13-1-403 (1) OR A WRIT OF PROTECTION ISSUED PURSUANT TO SECTION 13-1-403 (2) IS LIABLE FOR DAMAGES IN A CIVIL ACTION FOR
ENSURE THAT ARRESTS MADE WHILE PERSONS ARE PRESENT AT A COURTHOUSE OR ON ITS ENVIRONS, OR WHILE GOING TO, ATTENDING, OR COMING FROM A COURT PROCEEDING, COMPLY WITH THIS SECTION. 13-1-404. Remedies. (1) A PERSON WHO KNOWINGLY VIOLATES SECTION 13-1-403 (1) OR A WRIT OF PROTECTION ISSUED PURSUANT TO SECTION 13-1-403 (2) IS LIABLE FOR DAMAGES IN A CIVIL ACTION FOR FALSE IMPRISONMENT.
ENSURE THAT ARRESTS MADE WHILE PERSONS ARE PRESENT AT A COURTHOUSE OR ON ITS ENVIRONS, OR WHILE GOING TO, ATTENDING, OR COMING FROM A COURT PROCEEDING, COMPLY WITH THIS SECTION. 13-1-404. Remedies. (1) A PERSON WHO KNOWINGLY VIOLATES SECTION 13-1-403 (1) OR A WRIT OF PROTECTION ISSUED PURSUANT TO SECTION 13-1-403 (2) IS LIABLE FOR DAMAGES IN A CIVIL ACTION FOR FALSE IMPRISONMENT. (2) A PERSON WHO KNOWINGLY VIOLATES SECTION 13-1-403 (1)
ENSURE THAT ARRESTS MADE WHILE PERSONS ARE PRESENT AT A COURTHOUSE OR ON ITS ENVIRONS, OR WHILE GOING TO, ATTENDING, OR COMING FROM A COURT PROCEEDING, COMPLY WITH THIS SECTION. 13-1-404. Remedies. (1) A PERSON WHO KNOWINGLY VIOLATES SECTION 13-1-403 (1) OR A WRIT OF PROTECTION ISSUED PURSUANT TO SECTION 13-1-403 (2) IS LIABLE FOR DAMAGES IN A CIVIL ACTION FOR FALSE IMPRISONMENT. (2) A PERSON WHO KNOWINGLY VIOLATES SECTION 13-1-403 (1) OR A WRIT OF PROTECTION ISSUED PURSUANT TO SECTION 13-1-403 (2) IS

OF PROTECTION IN OTHER REGULARLY ISSUED DOCUMENTS.

1

-5- 083

1	13-1-403 TO OBTAIN APPROPRIATE EQUITABLE OR DECLARATORY RELIEF.
2	(4) A PERSON ARRESTED OR DETAINED IN VIOLATION OF SECTION
3	13-1-403 MAY SEEK A WRIT OF HABEAS CORPUS.
4	13-1-405. Severability. IF ANY PROVISION OF THIS PART 4 OR ITS
5	APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE
6	INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATION OF THIS
7	PART 4 THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR
8	APPLICATION, AND TO THIS END THE PROVISIONS OF THIS PART 4 ARE
9	SEVERABLE.
10	SECTION 2. In Colorado Revised Statutes, 13-1-114, amend
11	(1)(d); and add (1)(e) as follows:
12	13-1-114. Powers of court. (1) Every court has power:
13	(d) To control, in furtherance of justice, the conduct of its
14	ministerial officers; AND
15	(e) TO PRESERVE ACCESS TO COURTHOUSES AND COURT
16	PROCEEDINGS, PREVENT INTERRUPTION OF COURT PROCEEDINGS, AND
17	ENFORCE PROTECTION FROM CIVIL ARREST AT A COURTHOUSE OR ON ITS
18	ENVIRONS PURSUANT TO SECTION 13-1-403.
19	SECTION 3. Safety clause. The general assembly hereby finds,
20	determines, and declares that this act is necessary for the immediate
21	preservation of the public peace, health, or safety.

-6- 083