

2023 -- S 0621

LC002254

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL PROCEDURE -- ARREST

Introduced By: Senators Kallman, Miller, Acosta, McKenney, Euer, Britto, Murray, and DiMario

Date Introduced: March 07, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 12-7 of the General Laws entitled "Arrest" is hereby amended by  
2 adding thereto the following section:

3 **12-7-23. Limitations on civil arrests.**

4 (a) Except as provided in subsection (b) of this section or for a crime committed and  
5 witnessed in the immediate presence of a law enforcement officer, no person shall be arrested while  
6 in the act of seeking immediate access to the courts or a judicial proceeding.

7 (b) A person duly and in good faith attending a court proceeding in which the person is a  
8 party or potential witness, or a family or household member is a party or potential witness, is  
9 privileged from civil arrest while going to, remaining at, and returning from, the place of the court  
10 proceeding, unless the arrest is supported by an arrest warrant issued by a court of competent  
11 jurisdiction or other judicial order authorizing a criminal or civil arrest. Evidence of intent to attend  
12 a court proceeding shall include, but not be limited to, providing a copy of a complaint, summons,  
13 subpoena or documents involving the person or a family or household member relative to a  
14 contemporaneously scheduled court hearing.

15 (c) It shall constitute contempt of the court and false imprisonment for any person to  
16 willfully violate this section by executing an arrest prohibited by this section or willfully assisting  
17 or willfully facilitating an arrest prohibited by this section; provided, however, that nothing herein  
18 shall affect any right or defense of any person, police officer, peace officer or public officer for an  
19 arrest made in good faith.

1 (d) Regardless of whether a proceeding for contempt of the court pursuant to subsection  
2 (c) of this section has been initiated:

3 (1) A person arrested in violation of this section may bring a civil action for appropriate  
4 equitable and declaratory relief;

5 (2) The department of attorney general may bring an action on behalf of the person arrested  
6 and/or on behalf of the court in the court's discretion; and

7 (3) In any successful action brought pursuant to the provision of this section, the person  
8 shall be entitled to reasonable attorneys' fees.

9 (e) Nothing contained in this section shall be construed to narrow or in any way lessen any  
10 common law or other right or privilege of a person to be free from unlawful arrest.

11 (f) As used in this section:

12 (1) "Civil arrest" means an arrest that is not for the sole or primary purpose of preparing  
13 the person subject to arrest for a violation of criminal law for which a duly authorized arrest warrant  
14 has been executed by a judge of this state, any other state or by a federal judge or magistrate for  
15 which a term of imprisonment is authorized by law.

16 (2) "Court proceeding" means any appearance in a court of this state before any judge or  
17 magistrate or other judicial officer or a hearing scheduled by any judicial officer, including clerks  
18 of the court, or the filing of any papers, petitions or requests for relief designed to initiate an  
19 appearance before any judge, magistrate or judicial officer.

20 (3) "Family or household member" shall have their ordinary meanings and shall mean  
21 anyone related by blood or marriage and any persons who are co-habiting.

22 (g) If any provision of this section or the application thereof to any person or circumstances  
23 is held invalid, such invalidity shall not affect other provisions or applications of this section, which  
24 can be given effect without the invalid provision or application, and to this end, the provisions of  
25 this section are declared to be severable.

26 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would prohibit the civil arrest of any person who is attending court either on behalf  
2 of themselves or a family or household member. Any person who violates this act shall be subject  
3 to civil suit, and for contempt of court.

4           This act would take effect upon passage.

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