
HOUSE BILL 2567

State of Washington

66th Legislature

2020 Regular Session

By Representatives Thai, Santos, Ryu, Valdez, Pollet, Davis, Wylie, Gregerson, Slatter, Lekanoff, Ortiz-Self, Frame, Mead, and Kloba

Read first time 01/15/20. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to the courts open to all act; adding new
2 sections to chapter 2.28 RCW; adding a new section to chapter 3.02
3 RCW; adding a new section to chapter 35.20 RCW; and creating new
4 sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that civil
7 arrests in and around Washington's court facilities impede the
8 fundamental mission of Washington's courts, which is to ensure due
9 process and access to justice for everyone. The United States supreme
10 court has recognized that "the unhindered and untrammled functioning
11 of our courts is part of the very foundation of our constitutional
12 democracy," and that a state may therefore adopt measures necessary
13 and appropriate to safeguarding the administration of justice by its
14 courts. *Cox v. Louisiana*, 379 U.S. 559, 562 (1965). People access
15 courts for many reasons, including to obtain domestic violence and
16 sexual assault protection orders, obtain child support orders, seek
17 back wages, pay traffic fines, apply for permits, answer and defend
18 against criminal charges, answer and defend against eviction actions,
19 testify in civil and criminal proceedings, and get married. The
20 administration of justice depends upon all people having free and
21 full access to the courts.

1 (2) The legislature further finds that civil arrests at
2 Washington court facilities have created a climate of fear that is
3 deterring and preventing Washington residents from safely interacting
4 with the justice system. Victims cannot seek protection, families
5 cannot enter into custody agreements, and those charged with crimes
6 cannot mount a proper defense or be held accountable. Courts and
7 lawyers cannot deliver the promise of equal access to justice and due
8 process under law to community members who are precluded from
9 accessing the courts. Therefore, it is essential that the state have
10 policies providing safeguards protecting access to justice.

11 (3) The legislature further finds that it is imperative that we
12 ensure that all members of our community feel safe coming to,
13 remaining at, and returning from Washington's courts. The United
14 States supreme court has acknowledged that a state has "the power to
15 preserve the property under its control for the use to which it is
16 lawfully dedicated," and that "[t]here is little doubt that in some
17 circumstances the Government may ban the entry on to public property
18 that is not a 'public forum' of all persons except those who have
19 legitimate business on the premises." *United States v. Grace*, 461
20 U.S. 171, 178 (1983). Accordingly, Washington may regulate entry and
21 access to the courts, and activity on courthouse premises and
22 environs, that threatens the fair and nondiscriminatory
23 administration of justice or the openness of courts. Additionally,
24 the United States supreme court and the Washington supreme court have
25 long recognized privileges against civil arrests for those attending
26 court. In recognition of the harmful impacts of civil arrests in and
27 around Washington courts, the legislature has a substantial and
28 compelling interest in ensuring the courts in the state of Washington
29 remain places where the rights and dignity of all residents are
30 maintained and there is access to justice for all.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 2.28 RCW
32 to read as follows:

33 The definitions in this section apply throughout this section and
34 sections 3 through 5 of this act unless the context clearly requires
35 otherwise.

36 (1) "Civil arrest" means the arrest of a person for an alleged
37 violation of civil law. It is not an arrest for an alleged violation
38 of criminal law, or for contempt of the court in which the court
39 proceeding is taking place or will be taking place.

1 (2) "Court facility" means any building or space occupied or used
2 by a court of this state, and adjacent property, including but not
3 limited to adjacent sidewalks, all parking areas, grassy areas,
4 plazas, court-related offices, commercial and governmental spaces
5 within court building property, and entrances and exits from said
6 building or space.

7 (3) "Court order" means a directive issued by a judge or
8 magistrate under the authority of Article III of the United States
9 Constitution or Article IV of the state Constitution. A "court order"
10 includes but is not limited to warrants and subpoenas.

11 (4) "Court security personnel" means law enforcement agencies and
12 officers assigned to protect court facilities or to transport in-
13 custody individuals to and from court proceedings and private agents
14 contracted to provide security at court facilities.

15 (5) "Court staff" means any municipal, county, or state employees
16 or contractors assigned to perform duties in court facilities,
17 including but not limited to probation officers, court security
18 personnel, court clerks, court administrators, interpreters, court
19 facilitators, and bailiffs.

20 (6) "Federal immigration authority" means any officer, employee,
21 or person otherwise paid by or acting as an agent of the United
22 States department of homeland security including but not limited to
23 its subagencies, immigration and customs enforcement, and customs and
24 border protection, and any present or future divisions thereof,
25 charged with immigration enforcement.

26 (7) "Immigration or citizenship status" means as such status has
27 been established to such individual under the immigration and
28 nationality act.

29 (8) "Judge" includes justices of the supreme court, judges of the
30 court of appeals, judges of the superior courts, judges of any court
31 organized under Title 3 or 35 RCW, judges pro tempore, court
32 commissioners, and magistrates.

33 (9) "Law enforcement action" includes but is not limited to
34 observation of court proceedings, investigation, questioning, and
35 arrests by law enforcement agents acting in their official capacity.

36 (10) "Nonpublicly available personal information" includes one or
37 more of the following, when the information is linked with or is
38 reasonably linkable, including via analytic technology, to the
39 person's first name or first initial and last name: Location, home
40 address, work address, immigration or citizenship status or place of

1 birth, telephone number, social security number, driver's license
2 number or Washington identification card number, electronic mail
3 address, social media handle or other identifying social media
4 information, and any other means of contacting the person.

5 (11) "Prosecutor" means a county prosecuting attorney, a city
6 attorney, or the attorney general.

7 (12) "State law enforcement agency" means any agency of the state
8 of Washington that:

9 (a) Is a general authority Washington law enforcement agency as
10 defined in RCW 10.93.020;

11 (b) Is authorized to operate prisons or to maintain custody of
12 individuals in prisons; or

13 (c) Is authorized to operate juvenile detention facilities or to
14 maintain custody of individuals in juvenile detention facilities.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 2.28 RCW
16 to read as follows:

17 (1) Judges, court staff, court security personnel, prosecutors,
18 and personnel of the prosecutor's office:

19 (a) Shall not inquire into or collect information about an
20 individual's immigration or citizenship status, or place of birth,
21 unless there is a connection between such information and an
22 investigation into a violation of state or local criminal law;
23 provided that a judge may make such inquiries as are necessary to
24 adjudicate matters within their jurisdiction. The court may enter
25 orders or conditions to maintain limited disclosure of any
26 information regarding immigration status as it deems appropriate to
27 protect the liberty interests of victims, the accused, civil
28 litigants, witnesses, and those who have accompanied victims to a
29 court facility; and

30 (b) Shall not otherwise provide nonpublicly available personal
31 information about an individual, including individuals subject to
32 community custody pursuant to RCW 9.94A.701 and 9.94A.702, to federal
33 immigration authorities for the purpose of civil immigration
34 enforcement, nor notify federal immigration authorities of the
35 presence of individuals attending proceedings or accessing court
36 services in court facilities, unless required by federal law or court
37 order.

38 (2) Sections 2 through 5 of this act do not limit or prohibit any
39 state or local agency or officer from:

1 (a) Sending to, or receiving from, federal immigration
2 authorities the citizenship or immigration status of a person, or
3 maintaining such information, or exchanging the citizenship or
4 immigration status of an individual with any other federal, state, or
5 local government agency, in accordance with 8 U.S.C. Sec. 1373; or

6 (b) Complying with any other state or federal law.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 2.28 RCW
8 to read as follows:

9 (1) Court security personnel or designated court staff shall
10 collect the name of the law enforcement officer, agency, date, time,
11 specific law enforcement purpose, and the proposed law enforcement
12 action to be taken by all on-duty state and federal law enforcement
13 officers, including plainclothes officers. Court security personnel
14 or designated court staff shall file a report for each law
15 enforcement action taken by on-duty state and federal law enforcement
16 officers in or on a court facility. Court security personnel or
17 designated court staff shall immediately transmit this information to
18 an appropriate supervisor, superior court clerk, or the court
19 administrator. Such reports are public records and must not include
20 personally identifying information concerning the individual who was
21 the target of the law enforcement action, and to the extent such
22 individuals are identified, they must be identified by the initials
23 of their first and last names.

24 (2) Courts shall transmit the information collected to the
25 administrative office of the courts on a monthly basis. The
26 administrative office of the courts shall publish this information on
27 a dedicated web site on a quarterly basis, organized by county, law
28 enforcement agency, and law enforcement purpose.

29 (3) The court security personnel or designated court staff shall
30 inform the presiding judge or the presiding judge's designee if a law
31 enforcement agent covered by this section is present in the court
32 facility with the intent of arresting or otherwise taking into
33 custody a party or other participant in a case before a judge.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 2.28 RCW
35 to read as follows:

36 (1) No person is subject to civil arrest while going to,
37 remaining at, or returning from, a court facility, except:

1 (a) Where such arrest is pursuant to a court order authorizing
2 the arrest;

3 (b) When necessary to secure the immediate safety of judges,
4 court staff, or the public; or

5 (c) Where circumstances otherwise permit warrantless arrest
6 pursuant to RCW 10.31.100.

7 (2) For purposes of this section, "going to" and "returning from"
8 includes the area within one mile of the court facility.

9 (3) State and federal law enforcement officers must provide court
10 security personnel or designated court staff with a copy of a court
11 order authorizing any civil arrest in or on a court facility prior to
12 making the arrest. Court security personnel or designated court staff
13 shall immediately transmit this information to the presiding judicial
14 officer or a designated judicial officer to review the court order
15 and confirm compliance with this requirement prior to any such
16 arrest.

17 (4) Nothing in this section narrows, or in any way lessens, any
18 common law or other right or privilege of a person privileged from
19 arrest pursuant to sections 2 through 4 of this act or otherwise.

20 NEW SECTION. **Sec. 6.** A new section is added to chapter 2.28 RCW
21 to read as follows:

22 Sections 2 through 5 of this act apply to the following courts:
23 The supreme court, the courts of appeal, the superior courts, and to
24 the courts of limited jurisdiction of this state, including district
25 and municipal courts.

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 3.02 RCW
27 to read as follows:

28 The provisions of sections 2 through 5 of this act apply to
29 courts of limited jurisdiction.

30 NEW SECTION. **Sec. 8.** A new section is added to chapter 35.20
31 RCW to read as follows:

32 The provisions of sections 2 through 5 of this act apply to
33 municipal courts.

34 NEW SECTION. **Sec. 9.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 10.** This act may be known and cited as the
4 courts open to all act.

--- END ---