

FINAL BILL REPORT

SHB 2567

C 37 L 20
Synopsis as Enacted

Brief Description: Concerning open courts.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Thai, Santos, Ryu, Valdez, Pollet, Davis, Wylie, Gregerson, Slatter, Lekanoff, Ortiz-Self, Frame, Mead and Kloba).

House Committee on Civil Rights & Judiciary
Senate Committee on Law & Justice

Background:

Civil Arrests.

Common law civil arrest is the arrest and detention of a defendant in a civil lawsuit. The term civil arrest is not defined in statute. Civil lawsuits are generally commenced by the filing of a complaint and issuance of a summons, and the common law practice of civil arrest is rarely used, although there are statutes that allow for a civil arrest warrant to be issued.

Immigration and Customs Enforcement.

Federal law prohibits any state or local law from restricting any government entity or official from sending or receiving information to Immigration and Customs Enforcement (ICE) regarding an individual's lawful or unlawful citizenship or immigration status. No person or agency may prohibit or restrict a federal, state, or local government entity from sending or requesting information from ICE about an individual's immigration status, or maintaining information exchanged with ICE, or exchanging information about an individual's immigration status with any other federal, state, or local entity.

Disclosure of Citizenship and Immigration Status.

State and local law enforcement agencies and school resource officers may not provide information to federal immigration authorities for civil immigration enforcement or provide nonpublic personal information about an individual to federal immigration authorities in noncriminal matters unless required by law. In addition, law enforcement agencies may not inquire into or collect information about an individual's immigration or citizenship status or place of birth, unless there is a connection between the information and a criminal investigation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The restrictions placed on the disclosure of information by a state agency or department are not applicable if the disclosure of the information is: required to comply with state and federal law; in response to a court order; necessary to perform nonimmigration enforcement-related agency or department duties or functions; or required to comply with any requirement necessary to maintain funding.

Summary:

A person may not be subject to civil arrest while going to, remaining at, or returning from, a court facility. "Civil arrest" is defined as the arrest of a person for an alleged violation of civil law. A civil arrest is not an arrest for an alleged violation of criminal law, nor is it an arrest for contempt of the court in which a court proceeding is taking place or will be taking place. "Going to" and "returning from" a facility includes the area within one mile of the facility. These provisions do not apply to arrests made pursuant to a valid court order, or in the interests of imminent risk to public safety, or pursuant to a warrantless arrest permitted by state law. Prior to any civil arrest, a designated judicial officer must review the court order authorizing the civil arrest.

Court processes are established in the event of state or federal law enforcement action at court facilities. "Law enforcement action" includes but is not limited to observation of court proceedings, investigation, questioning, and arrests by law enforcement agents acting in their official capacity.

The governmental entity responsible for the security of the court facility is required to collect information from all on-duty state and federal law enforcement officers, including plainclothes officers, entering court facilities. Law enforcement officers participating in a case or proceeding before the court are excluded from the information collection requirement. Information to be collected must include the name of the law enforcement officer, agency, date, time, the specific law enforcement purpose, and the proposed law enforcement action to be taken. The Administrative Office of the Courts (AOC) is required to develop a standard form to collect the information no later than July 1, 2020. Information collected must not include personally identifying information concerning the individual who was the target of the action. Completed forms must be transmitted to the AOC monthly, and the AOC is required to publish the information in a quarterly report beginning October 1, 2020. Designated court staff must immediately be notified if a law enforcement agent is present in the court for the purpose of conducting a civil arrest.

Disclosure of Citizenship and Immigration Status.

Judges, court staff, court security personnel, prosecutors, and prosecutor's office personnel are prohibited from inquiring into or collecting immigration or citizenship status information, or place of birth, unless there is a connection between the information and a criminal investigation. A judge may make inquiries if necessary to adjudicate matters within his or her jurisdiction. The court may obtain limited disclosure of any information regarding immigration status as it deems appropriate to protect the liberty interests of participants in a proceeding.

Except as provided by law, judges, court staff, court security personnel, prosecutors, and prosecutor's office personnel are also prohibited from providing nonpublicly available

personal information about an individual to Immigration and Customs Enforcement (ICE) for the purposes of civil immigration enforcement and are prohibited from notifying ICE of the presence of individuals attending proceedings or accessing court services in court facilities.

Votes on Final Passage:

House 55 43

Senate 28 20

Effective: June 11, 2020