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**SUBSTITUTE HOUSE BILL 2567**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

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

READ FIRST TIME 02/07/20.

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

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

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

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

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

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

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

15 (b) "State law enforcement agency" does not include any agency,  
16 department, or division of a municipal corporation, political  
17 subdivision, or other unit of local government of this state.

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

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

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

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

1 services in court facilities, unless required by federal law or court  
2 order.

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

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

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

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

13 (1) The governmental entity responsible for the security of a  
14 court facility, using the form described in subsection (2) of this  
15 section, shall collect the name of the law enforcement officer,  
16 agency, date, time, specific law enforcement purpose, and the  
17 proposed law enforcement action to be taken by all on-duty state and  
18 federal law enforcement officers, including plain-clothed officers,  
19 entering court facilities, unless such officer's purpose is to  
20 participate in a case or proceeding before the court. Completed forms  
21 must be immediately transmitted to the appropriate court staff.  
22 Information collected must not include personal identifying  
23 information concerning the individuals who were the target of the law  
24 enforcement action, and to the extent such individuals are  
25 identified, they must be identified by the initials of their first  
26 and last names. Completed forms must be transmitted to the  
27 administrative office of the courts on a monthly basis.

28 (2) The administrative office of the court shall develop a  
29 standard form to collect the information in subsection (1) of this  
30 section. The form must be developed no later than July 1, 2020. The  
31 administrative office of the courts shall publish a quarterly report  
32 of the information collected in subsection (1) of this section  
33 beginning October 1, 2020.

34 (3) Designated court staff must be notified without delay if a  
35 law enforcement agent covered by this section is present in the court  
36 facility with the intent of conducting a civil arrest.

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

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

3 (a) Where such arrest is pursuant to a court order authorizing  
4 the arrest;

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

7 (c) Where circumstances otherwise permit warrantless arrest  
8 pursuant to RCW 10.31.100.

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

11 (3) Prior to any civil arrest in or on a court facility  
12 authorized by subsection (1)(a) of this section, a designated  
13 judicial officer shall review a court order authorizing any civil  
14 arrest to confirm compliance with subsection (1)(a) of this section.

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

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

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

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

26 The provisions of sections 2 through 5 of this act apply to  
27 courts of limited jurisdiction.

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

30 The provisions of sections 2 through 5 of this act apply to  
31 municipal courts.

32 NEW SECTION. **Sec. 9.** If any provision of this act or its  
33 application to any person or circumstance is held invalid, the  
34 remainder of the act or the application of the provision to other  
35 persons or circumstances is not affected.

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

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