
HOUSE BILL 309
Judicial Facility Civil Arrest Limitations
House Judiciary Committee
Position: FAVORABLE

The Maryland Access to Justice Commission (A2JC) is an independent entity that unites leaders to drive reforms and innovations to make the civil justice system accessible, equitable, and fair for all Marylanders. We write in support of HB309 and request a favorable report. This legislation is vital to preserving the neutrality of our judicial facilities, ensuring that all Marylanders can access the justice system without fear of civil arrest.

Judicial Facilities Must Remain Neutral Spaces to Ensure Access to Justice

For the justice system to function, judicial facilities must be viewed as a neutral forum. Marylanders use judicial facilities to protect themselves and their communities from harm and to exercise fundamental rights.

A courthouse is a judicial facility that has a unique Constitutional responsibility to protect due process and access to justice on behalf of the entire public. That mission is jeopardized when victims, witnesses, and litigants are afraid to come to the courthouse to file and defend against cases or serve as witnesses in ongoing cases because they fear going to a courthouse. In addition to courthouses, HB309 recognizes additional judicial facilities where justice is meted out, including forums for administrative proceedings, where vital determinations regarding unemployment benefits, zoning, workers' compensation, and professional licensing occur.

Of note, modern courthouses and other judicial facilities may also serve as hubs for essential services, including victim services, self-help centers, housing counseling, and local government services. If judicial facilities are not protected as neutral spaces, if these spaces are not deemed neutral, Marylanders not only opt out of using established means to resolve disputes and conflict, they will also opt out of receiving these services, which will have ripple impacts on their housing stability, economic security, and personal safety.

The Chilling Effect of Civil Arrests in Judicial Facilities

A2JC has studied the issue of ICE enforcement in state courts and supports curtailing ICE presence and arrests in and around courthouses. A2JC conducted a survey in 2018 to study the scale and scope of ICE arrests in state courts, finding that enforcement in courts was:

1. impeding the ability of all Marylanders to access equal justice under law;
2. undermining the ability of the courts to administer justice fairly and efficiently; and
3. impacting public trust in the justice system and the rule of law.

In 2019, a detailed report by the Maryland Access to Justice Commission highlighted the chilling effects of ICE enforcement actions in courthouses. Between January 2017 and October 2018 alone, over 70 ICE arrests were reported in or near Maryland courts, with actual numbers likely much higher. These arrests occurred in courtrooms, hallways, and parking lots, often in public view, undermining the perception of courts as places of safety and justice.

The survey also demonstrated the ICE court arrests caused substantial collateral impact to Marylanders and the justice system as a whole. **Fear of going to court and interacting with the justice system was pervasive, highlighted by the finding that people were more fearful of going to court than interacting with law enforcement.**

A2JC's findings showed that the fear of encountering ICE at courthouses caused individuals to forgo pursuing legal remedies in a wide range of cases. Notably, hundreds of domestic violence and family law cases went unfiled because individuals feared deportation. For instance, 472 instances were reported where survivors of domestic violence or sexual assault did not seek protection orders due to ICE activity near courts. This erosion of trust in the justice system has wide-ranging consequences, not just for immigrants but for public safety and community well-being.

The report also found that ICE enforcement actions in courthouses created additional challenges for the administration of justice. Witnesses avoided testifying, opposing attorneys threatened to call ICE as a tactic, and detained individuals missed court appearances, resulting in bench warrants. These practices erode the very foundation of a fair and accessible legal system.

HB309 is Necessary and Comports with Existing Maryland Guidelines

An executive order issued by the White House on January 20, 2025, rescinded the 2021 guidelines that limited Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) actions near sensitive locations, including courthouses.

A separate 2021 memo, entitled *Civil Immigration Enforcement Actions in or near Courthouses*, provided additional guidance related to ICE activity in and around courthouses.

As a core principle, it stated the following:

The courthouse is a place where the law is interpreted, applied, and justice is to be done. As law enforcement officers and public servants, we have a special responsibility to ensure that access to the courthouse - and therefore access to justice, safety for crime victims, and equal protection under the law - is preserved. Executing civil immigration enforcement actions in or near a courthouse may chill individuals' access to courthouses and, as a result, impair the fair administration of justice.

Due to the void created by the recession of federal protections, state protections are necessary to provide clarity to litigants informing them that judicial facilities remain neutral and safe spaces to conduct legal proceedings.

HB309 comports with and strengthens the policy direction already established by the Maryland Office of the Attorney General after the passage of HB1222 during the 2025 legislative session (Maryland Values Act). The Attorney General's guidance regulates the conduct of Maryland officers to prevent participation in civil enforcement, HB309 regulates the *environment* in which justice is administered. It ensures that the physical spaces of justice remain neutral. The Attorney General has previously recognized a "special responsibility to ensure that access to the courthouse... is preserved," noting that civil enforcement actions near courthouses "impair the fair administration of justice." By prohibiting civil arrests in these facilities, HB309 codifies the principle that state resources and facilities should not be used to facilitate federal civil enforcement that erodes public trust.

A Balanced Approach to Safety and Access

HB309 offers a measured solution to this urgent problem. It prohibits a person from stopping, detaining, or arresting an individual for an offense subject only to a civil penalty while that individual is in a judicial facility or traveling within one mile of it for a proceeding.

However, the bill is drafted to ensure it does not hinder public safety. It explicitly exempts arrests related to:

- Suspected criminal offenses;
- Valid warrants;
- Contempt of court; and
- Emergency evaluations for mental health.

Furthermore, the bill provides a mechanism for coordination by requiring prior notice to the presiding judge or court administrator if such an arrest must occur, ensuring it is done in a manner that does not disrupt proceedings. This restores the judiciary's control over its own facilities and ensures that the "unhindered and untrammelled functioning of our courts" remains a priority.

Conclusion

Access to judicial facilities—and therefore access to justice—must be preserved. HB309 is a necessary measure to ensure that our judicial facilities remain safe, neutral, and accessible to all Marylanders, regardless of their civil legal status.

Thus, we urge a favorable report on HB309. Please contact Reena K. Shah at reena@msba.org if you have any questions.