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POSITION ON PROPOSED LEGISLATION

BILL: HB309 - Judicial Facilities - Stops, Detentions, and Arrests - Limitations

FROM: Maryland Office of the Public Defender

POSITION: Favorable With Amendment

DATE: February 2, 2026

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on HB309, prohibiting arrests for civil offenses in and around Maryland courthouses except in certain specified circumstances.

Courthouses must be accessible to all if real justice is to be done there. Maryland is at its best and safest when we offer equal recourse to all who need the protection of our courts, and promise both fairness and accountability to those accused of breaking our law. The aggressive enforcement of civil immigration law that has taken place in Maryland and across the country over the last year has, among other things, made many Marylanders fear that any appearance in a courthouse carries the threat of detention, family separation, and exile. Courthouse ICE arrests have occurred in Maryland, and they have not been limited to criminal defendants, much less to defendants accused of serious crimes. Witnesses in criminal cases, individuals attending court to answer for non-criminal infractions, and people whose cases had just been dismissed have been arrested in or immediately around Maryland courts in the last year. While Maryland has experienced fewer courthouse arrests than our neighbors in Virginia and the District of Columbia, the fear among immigrants who have business before the courts is palpable. When immigrants must fear the trip to court to vindicate their rights, they are less likely to contest an illegal eviction or fight against wage theft; file a lawsuit when they have been wronged; testify – for either side – in a criminal case; engage with any of the valuable specialty court programs that we have across the state; and even to fight for custody or parental rights.

This bill makes Maryland’s position clear: everyone should be able to access Maryland courts without fear. A federal court recently upheld a similar law in New York in the face of a preemption challenge, recognizing that a State is within its rights to protect its critical interest in preserving access to justice in its own courts.¹ Even if this authority were subject to additional challenges, this bill would still be meaningful. It clearly asserts our values and sends an empowering message to judges, who indisputably have wide latitude to prevent and address disturbances in their courts, that Maryland considers arrests based on alleged civil violations to be disruptive to the processes of justice, and that such arrests should therefore be curtailed to the greatest extent possible.

To ensure that the purpose of the law is effectuated, the Maryland Office of the Public Defender suggests that the Committee adopt an amendment clarifying that the exception set out in subsection (b)(2) applies only to valid *judicial* warrants. This will avoid confusion with an administrative “warrant,” which is issued by an agency to direct agency personnel to make a civil arrest, but requires no determination of probable cause by a neutral judicial officer and therefore is not a warrant in the traditional sense.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report with amendment on HB309.

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.
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¹ See *United States v. State of New York*, 1:25-CV-744 (N.D.N.Y. 2025), available at https://storage.courtlistener.com/recap/gov.uscourts.nynd.148581/gov.uscourts.nynd.148581.66.0_1.pdf