STATE OF NEW YORK

5457

2023-2024 Regular Sessions

IN SENATE

March 6, 2023

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law, in relation to protecting people from civil arrest at certain locations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The civil rights law is amended by adding a new section 29 to read as follows:

§ 29. Civil arrest; certain locations. 1. A person shall be privileged from civil arrest while within one thousand feet of a sensitive location, unless such civil arrest is supported by a judicial warrant or judicial order authorizing such civil arrest.

2. It is a contempt of the court and false imprisonment for any person to willfully violate subdivision one of this section, by executing an arrest prohibited by subdivision one of this section or willfully assisting an arrest prohibited by subdivision one of this section; provided, however, that nothing in this subdivision shall affect any right or defense of any person, police officer, peace officer or public officer pursuant to article thirty-five of the penal law.

3. Regardless of whether a proceeding for contempt of the court pursuant to subdivision two of this section has been initiated:

(a) a person described in subdivision one of this section may bring a civil action for appropriate equitable and declaratory relief if such person has reasonable cause to believe a violation of subdivision one of this section, as described in subdivision two of this section has occurred or may occur; and

(b) the attorney general may bring a civil action in the name of the people of the state of New York to obtain appropriate equitable and declaratory relief if the attorney general has reasonable cause to believe that a violation of subdivision one of this section, as described in subdivision two of this section has occurred or may occur.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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4. In any successful action pursuant to subdivision three of this section, a plaintiff or petitioner may recover costs and reasonable attorney's fees.

5. Nothing in this section shall be construed to narrow, or in any way lessen, any common law or other right or privilege of a person privileged from arrest pursuant to this article or otherwise.

6. As used in this section:

(a) "civil arrest" shall mean an arrest that is not:

(i) for the sole or primary purpose of preparing the person subject to such arrest for criminal prosecution, for an alleged violation of the criminal law of:

(A) this state, or another state, for which a sentence of a term of imprisonment is authorized by law; or

(B) the United States, for which a sentence of a term of imprisonment is authorized by law, and for which federal law requires an initial appearance before a federal judge, federal magistrate or other judicial officer, pursuant to the federal rules of criminal procedure that govern initial appearances; or

(ii) for contempt of the court in which the court proceeding is taking place or will be taking place;

(b) "sensitive location" means:

(i) any medical treatment or health care facility, including any hospital, doctor's office, accredited health clinic, or emergent or urgent care facility, or community health center;

(ii) all public and private schools, including but not limited to, pre-schools, primary schools, secondary schools, colleges and universities; sites of early childhood education programs; other institutions of learning; vocational and trade schools; and other sites where individuals who are unemployed or underemployed may apply for or receive workforce training;

(iii) any scholastic or education-related activity or event, including field trips and interscholastic events;

(iv) locations where emergency services providers provide shelter or food;

(v) locations of any organization that:

(A) assists children, pregnant women, victims of crime or abuse, or individuals with significant mental or physical disabilities, including domestic violence shelters, rape crisis centers, supervised visitation centers, family justice centers, and victims services providers; or

(B) provides disaster or emergency social services and assistance, or services for individuals experiencing homelessness, including, food banks and shelters;

(vi) places of worship and sites of funerals, weddings or other religious ceremonies; and

(vii) any office of a state or local elected official; and

(c) "judicial warrant" or "judicial order authorizing such civil arrest" means an arrest warrant or other judicial order, issued by a magistrate sitting in the judicial branch of a local or state government or of the federal government, authorizing a civil arrest and issued by the court in which proceedings following such arrest will be heard and determined.

7. No action or proceeding may be commenced pursuant to this section against the unified court system or any unified court system personnel acting lawfully pursuant to their duty to maintain safety and order in the courts.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately.