

ACLU OF RI POSITION: SUPPORT

**TESTIMONY IN SUPPORT OF 23-H 6199,
RELATING TO CRIMINAL PROCEDURE -- ARREST
April 4, 2023**

The ACLU of Rhode Island strongly supports this bill, which would prohibit, absent a judicially authorized civil or criminal arrest warrant, the civil arrest of any person who is attending court either on behalf of themselves or a family or household member.

Throughout the Trump Administration years, there was a tide of immigration enforcement taking place at or near courthouses across the country, including in New England.¹ The widely reported presence and actions of Immigration and Customs Enforcement (“ICE”) personnel at courthouses served their purpose of chilling access to the courts by impeding residents from accessing essential court services. Following the leads of the Chief Justices of a number of state Supreme Courts – including California,² Washington State,³ Oregon⁴ and New Jersey⁵ – Chief Justice Suttell issued a statement condemning these actions shortly after an undocumented immigrant was arrested outside the Licht Judicial Complex after appearing in court there.

As Chief Justice Thomas Balmer of the Oregon Supreme Court cogently explained:

“The State of Oregon needs to encourage, not discourage, court appearances by parties and witnesses, regardless of their immigration status. However, ICE’s increasingly visible practice of arresting or detaining individuals in or near courthouses for possible violations of immigration laws is developing into a strong deterrent to access to the courts for many Oregon residents. A number of our trial courts report that even attendance at scheduled hearings has been adversely affected because parties or witnesses fear the presence of ICE agents. The chilling effect of ICE’s actions deters not only undocumented residents, but also those who are uncertain about the implications of their immigration or residency status or are close family, friends, or neighbors of undocumented residents. ICE’s actions also deter appearances in court by those who are legal residents or citizens, but who do not want to face the prospect of what they see as hostile questioning based on perceived ethnicity, cases of misidentification, or other intrusive interactions with ICE agents.”

¹ <http://mainepublic.org/post/somali-man-arrested-federal-immigration-agents-maine-courthouse#stream/0>

² <http://newsroom.courts.ca.gov/news/chief-justice-cantil-sakauye-objects-to-immigration-enforcement-tactics-at-california-courthouses>

³ <https://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20News/KellyJohnDHSICE032217.pdf>

⁴ http://media.oregonlive.com/portland_impact/other/CJ%20ltr%20to%20AG%20Sessions-Secy%20Kelly%20re%20ICE.pdf

⁵ <https://www.documentcloud.org/documents/3673664-Letter-from-Chief-Justice-Rabner-to-Homeland.html#document/p1>

Unfortunately, that fear still lingers in the community, making passage of legislation like this an important antidote. Indeed, people come to court to obtain domestic violence restraining orders, seek child support enforcement, pursue back wages unlawfully denied them, testify in criminal cases, and pay traffic fines. The administration of justice depends on all people having free and full access to the courts. The promise of equal access to justice and due process under law cannot be delivered if a segment of the community is afraid to access the courts. Because this legislation addresses this basic issue, we urge its support.

We appreciate your consideration of our views.