SPONSOR: Rep. Gorman & Sen. Sturgeon
Reps. Harris, Berry, Lambert, Morrison, Romer, Ross Levin, Snyder-Hall, Chukwuocha; Sens. Cruce, Lockman, Pinkney, Seigfried

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 150

AN ACT AMENDING TITLE 10 OF THE DELAWARE CODE RELATING TO CIVIL ARRESTS.

WHEREAS, the threat that persons may be subject to civil arrest while in Delaware's courthouses or attending judicial or administrative proceedings is a threat to the proper functioning of Delaware's government and to the rights enjoyed by all Delawareans; and

WHEREAS, the United States Supreme Court has recognized that "the unhindered and untrammeled functioning of our courts is part of the very foundation of our constitutional democracy," and that a state may therefore adopt measures necessary and appropriate to safeguard the administration of justice by its courts. *Cox v. Louisiana*, 379 U.S. 559, 562 (1965); and

WHEREAS, accordingly, Delaware may regulate entry and access to the courts and activity on courthouse premises and vicinities that threaten the fair and nondiscriminatory administration of justice or the openness of courts; and

WHEREAS, public access to Delaware's courts also enhances the truth-finding function of judicial proceedings, safeguarding their integrity; and

WHEREAS, protecting persons from civil arrest while in Delaware's courthouses or attending judicial proceedings is necessary to preserve the vital role served by public access to courts; and

WHEREAS, the State has a similar interest in safeguarding administrative proceedings before the Delaware Industrial Accident Board where evidence is received and adjudicated relating to the rights of employers, workers, and insurers.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part V, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 82. Civil Arrests

§ 8201. Definitions.

As used in this chapter:

(1) "Civil arrest" means an arrest or detention for matters not related to criminal law enforcement or other judicial order authorizing such arrest.

(2) "Courthouse" means any building or facility where State judicial proceedings are conducted or where the offices of judicial officers or employees are housed.

(3) "Office of the Delaware Industrial Accident Board" means any Department of Labor office location where the Delaware Industrial Accident Board conducts hearings or other proceedings.

§ 8202. Prohibition on civil arrest.

(a) No person may be subject to civil arrest while:

(1) Going to, remaining at, or returning from a courthouse for matters related to a judicial proceeding.

(2) Participating in or attending a judicial proceeding as a party, witness, attorney, or observer.

(3) Going to, remaining at, or returning from the Office of the Delaware Industrial Accident Board for matters related to a workers' compensation administrative proceeding.

(4) Participating in or attending an administrative proceeding of the Delaware Industrial Accident Board as a party, witness, attorney, or observer.

(b) This prohibition applies to the immediate surroundings of the courthouse or the Office of the Delaware Industrial Accident Board, including any contiguous public entryways, driveways, sidewalks, parking areas, and grounds intended to serve the courthouse or the Office of the Delaware Industrial Accident Board.

§ 8203. Prohibition on civil arrest; exceptions.

(a) Section 8202 of this title does not apply to arrests made pursuant to a judicial order authorizing such arrest.

(b) A law enforcement officer may conduct a civil arrest within a courthouse or the Office of the Delaware Industrial Accident Board if the law enforcement officer provides the presiding judge or administrative officer written notice of the arrest in advance. The written notice must include the following:

(1) The name of the individual to be arrested.

(2) The nature of the civil violation.

(3) A copy of the citation associated with the listed civil violation or other paperwork that documents the listed civil violation.

(4) The time and location that the arrest will be attempted.

§ 8204. Enforcement and remedies.

(a) A judicial officer or representative of the Delaware Industrial Accident Board has the power to prohibit activities that threaten access to state courthouses and administrative or court proceedings, and to prohibit interruption of judicial administration, including protecting the privilege from civil arrest at courthouses, court proceedings, and administrative proceedings.

(b) A person arrested or detained in violation of this chapter may seek a writ of habeas corpus.

(c) A person who knowingly violates § 8203 of this title may be liable for damages in a civil action for false imprisonment.

(d) Courts may award attorney's fees and costs to prevailing parties in actions brought under this section.

SYNOPSIS

This Act prohibits civil arrests from being made in courthouses or Department of Labor Offices where the Delaware Industrial Accident Board conducts hearings. The prohibition does not apply where there is a judicial order authorizing the civil arrest or where the law enforcement officer seeking to make the civil arrest has provided the court or administrative body with detailed advance notice regarding the proposed arrest.

This Substitute differs from the original House Bill No. 150 in that it adds locations and proceedings related to the Delaware Industrial Accident Board to the prohibition and incorporates changes made by House Amendment No. 2 into the body of the bill.