

**RCW 2.28.300 Definitions—Immigration enforcement and civil arrests.** The definitions in this section apply throughout this section and RCW 2.28.310 through 2.28.330 unless the context clearly requires otherwise.

(1) "Civil arrest" means the arrest of a person for an alleged violation of civil law. It is not an arrest for an alleged violation of criminal law, or for contempt of the court in which the court proceeding is taking place or will be taking place.

(2) "Court facility" means any building or space occupied or used by a court of this state, and adjacent property, including but not limited to adjacent sidewalks, all parking areas, grassy areas, plazas, court-related offices, commercial and governmental spaces within court building property, and entrances and exits from said building or space.

(3) "Court order" means a directive issued by a judge or magistrate under the authority of Article III of the United States Constitution or Article IV of the state Constitution. A "court order" includes but is not limited to warrants and subpoenas.

(4) "Court security personnel" means law enforcement agencies and officers assigned to protect court facilities or to transport in-custody individuals to and from court proceedings and private agents contracted to provide security at court facilities.

(5) "Court staff" means any municipal, county, or state employees or contractors assigned to perform duties in court facilities, including but not limited to probation officers, court security personnel, court clerks, court administrators, interpreters, court facilitators, and bailiffs.

(6) "Federal immigration authority" means any officer, employee, or person otherwise paid by or acting as an agent of the United States department of homeland security including but not limited to its subagencies, immigration and customs enforcement, and customs and border protection, and any present or future divisions thereof, charged with immigration enforcement.

(7) "Immigration or citizenship status" means as such status has been established to such individual under the immigration and nationality act.

(8) "Judge" includes justices of the supreme court, judges of the court of appeals, judges of the superior courts, judges of any court organized under Title 3 or 35 RCW, judges pro tempore, court commissioners, and magistrates.

(9) "Law enforcement action" includes but is not limited to observation of court proceedings, investigation, questioning, and arrests by law enforcement agents acting in their official capacity.

(10) "Nonpublicly available personal information" includes one or more of the following, when the information is linked with or is reasonably linkable, including via analytic technology, to the person's first name or first initial and last name: Location, home address, work address, place of birth, telephone number, social security number, driver's license number or Washington identification card number, electronic mail address, social media handle or other identifying social media information, and any other means of contacting the person.

(11) "Prosecutor" means a county prosecuting attorney, a city attorney, or the attorney general.

(12)(a) "State law enforcement agency" means any agency of the state of Washington that:

(i) Is a general authority Washington law enforcement agency as defined in RCW 10.93.020;

(ii) Is authorized to operate prisons or to maintain custody of individuals in prisons; or

(iii) Is authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.

(b) "State law enforcement agency" does not include any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state. [2020 c 37 s 2.]

**Findings—2020 c 37:** "(1) The legislature finds that civil arrests in and around Washington's court facilities impede the fundamental mission of Washington's courts, which is to ensure due process and access to justice for everyone. The United States supreme court has recognized that "the unhindered and untrammelled 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 safeguarding the administration of justice by its courts. *Cox v. Louisiana*, 379 U.S. 559, 562 (1965). People access courts for many reasons, including to obtain domestic violence and sexual assault protection orders, obtain child support orders, seek back wages, pay traffic fines, apply for permits, answer and defend against criminal charges, answer and defend against eviction actions, testify in civil and criminal proceedings, and get married. The administration of justice depends upon all people having free and full access to the courts.

(2) The legislature further finds that civil arrests at Washington court facilities have created a climate of fear that is deterring and preventing Washington residents from safely interacting with the justice system. Victims cannot seek protection, families cannot enter into custody agreements, and those charged with crimes cannot mount a proper defense or be held accountable. Courts and lawyers cannot deliver the promise of equal access to justice and due process under law to community members who are precluded from accessing the courts. Therefore, it is essential that the state have policies providing safeguards protecting access to justice.

(3) The legislature further finds that it is imperative that all members of our community feel safe coming to, remaining at, and returning from Washington's courts. The United States supreme court has acknowledged that a state has "the power to preserve the property under its control for the use to which it is lawfully dedicated," and that "[t]here is little doubt that in some circumstances the Government may ban the entry on to public property that is not a 'public forum' of all persons except those who have legitimate business on the premises." *United States v. Grace*, 461 U.S. 171, 178 (1983). Accordingly, Washington may regulate entry and access to the courts, and activity on courthouse premises and environs, that threatens the fair and nondiscriminatory administration of justice or the openness of courts. Additionally, the United States supreme court and the Washington supreme court have long recognized privileges against civil arrests for those attending court. In recognition of the harmful impacts of civil arrests in and around Washington courts, the legislature has a substantial and compelling interest in ensuring the courts in the state of Washington remain places where the rights and

dignity of all residents are maintained and there is access to justice for all." [2020 c 37 s 1.]

**Short title—2020 c 37:** "This act may be known and cited as the courts open to all act." [2020 c 37 s 10.]