

SENATE BILL NO. 351
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee for Courts of Justice
on _____)
(Patron Prior to Substitute—Senator Salim)

A BILL to amend and reenact §§ 8.01-327.1 and 8.01-327.2 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 8 of Title 8.01 sections numbered 8.01-327.3 and 8.01-327.4, relating to certain civil arrests prohibited in courthouses; penalty.

Be it enacted by the General Assembly of Virginia:

10 1. That §§ 8.01-327.1 and 8.01-327.2 of the Code of Virginia are amended and reenacted and that the
11 Code of Virginia is amended by adding in Article 5 of Chapter 8 of Title 8.01 sections numbered
12 8.01-327.3 and 8.01-327.4 as follows:

§ 8.01-327.1. Definition of "arrest under civil process."

14 The terms "arrest under civil process" and "civil arrest" shall be synonymous and shall be the
15 apprehending and detaining of a person pursuant to specific provisions of this title to achieve the following:

1. A full and proper answer or response to interrogatories under § 8.01-506; or
2. His obedience to (i) the orders, judgments, and decrees of any court or (ii) any civil administrative warrant issued by or on behalf of a state or federal agency or administrative judge or court that may form the basis for an individual's arrest or detention for a civil immigration purpose.

20 "Arrest under civil process" and "civil arrest" do not include (a) an arrest for contempt of court pursuant
21 to the provisions of Article 5 (§ 18.2-456 et seq.) of Chapter 10 of Title 18.2; (b) service of or arrest on a
22 warrant, capias, or summons issued pursuant to § 19.2-76; (c) service or enforcement of an administrative
23 child support order pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 or a civil show cause summons
24 or a capias issued by a court for failure to pay child support in accordance with § 16.1-278.16; or (d) other
25 relevant provisions of law under which the court proceeding is taking place or is scheduled to take place.

§ 8.01-327.2. Who are privileged from arrest under civil process.

27 In addition to the exemptions made by §§ 8.01-327.3, 30-4, 30-6, 30-7, 30-8, 19.2-280, and 44-97, the
28 following persons shall not be arrested, apprehended, or detained under any civil process during the times
29 respectively herein set forth, but shall not otherwise be privileged from service of civil process by this
30 section:

31 1. The President of the United States, and the Governor of the Commonwealth at all times during their

32 terms of office;

33 2. The Lieutenant Governor of the Commonwealth during attendance at sessions of the General Assembly
34 and while going to and from such sessions;

35 3. Members of either house of the Congress of the United States during the session of Congress and for
36 fifteen days next before the beginning and after the ending of any session, and during any time that they are
37 serving on any committee or performing any other service under an order or request of either house of
38 Congress;

39 4. A judge, grand juror or witness, required by lawful authority to attend any court or place, during such
40 attendance and while going to and from such court or place;

41 *5. A party required by lawful authority to attend any court of the Commonwealth, such party's family or
42 household member as defined in § 16.1-228, or a person attending the court with such party to serve as a
43 witness for such party during such attendance or while going to or from the court;*

44 6. Members of the National Guard while going to, attending at, or returning from, any muster or
45 court-martial;

46 6. 7. Ministers of the gospel while engaged in performing religious services in a place where a
47 congregation is assembled and while going to and returning from such place; and

48 7. 8. Voters going to, attending at, or returning from an election. Such privilege shall only be on the days
49 of such attendance.

50 **§ 8.01-327.3. Requirements to effect certain civil arrests in a courthouse.**

51 *A. No person with the lawful authority to perform civil arrests shall conduct a civil arrest in a courthouse
52 unless such person, upon entering the courthouse, provides to a sheriff, deputy sheriff, law-enforcement
53 officer, or other person designated to provide security to the courthouse pursuant to § 53.1-120 (i) his
54 identification; (ii) that his reason for entering the courthouse is to effect a civil arrest; and (iii) a judicial
55 warrant or judicial order authorizing the civil arrest.*

56 *B. No sheriff, deputy sheriff, law-enforcement officer, or other person designated to provide security to
57 the courthouse pursuant to § 53.1-120 shall permit any person to access a courthouse to conduct a civil
58 arrest unless the person presents a valid judicial warrant or judicial order authorizing the civil arrest and
59 such judicial warrant or judicial order has been reviewed, and its authenticity confirmed in writing, by a
60 designated judicial officer or discreet and competent attorney at law.*

61 *The provisions of this section shall apply to courts of record as defined in § 1-212 and courts not of
62 record as defined in § 16.1-69.5. Nothing in this section shall be construed to authorize the civil arrest of any*

63 *person otherwise exempt from such civil arrest by §§ 8.01-327.2, 30-4, 30-6, 30-7, 30-8, 19.2-280, and*
64 *44-97.*

65 **§ 8.01-327.4. Penalty for conducting prohibited civil arrest.**

66 *A. Any action taken to perform a civil arrest in willful violation of § 8.01-327.3, including conducting a*
67 *prohibited civil arrest, or facilitating or assisting with the performance of a prohibited civil arrest, shall*
68 *constitute contempt of court.*

69 *B. In addition to any other right or remedy, a person may bring a civil action for appropriate equitable,*
70 *injunctive, or declaratory relief against another person who willfully violates the provisions of § 8.01-327.3.*
71 *Nothing in this subsection shall be construed to limit or prohibit any person injured by a civil arrest*
72 *performed in violation of § 8.01-327.3 from recovering damages or other appropriate relief.*

73 *C. In addition to any other right or remedy, the Attorney General may bring a civil action against any*
74 *person who willfully violates this section.*