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SENATE BILL 149

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Antoinette Sedillo Lopez

AN ACT

RELATING TO COURTS; PROHIBITING CERTAIN ARRESTS IN COURTHOUSES;
PROVIDING FOR A WRIT OF PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] ARRESTS IN COURTHOUSES--ARRESTS
EN ROUTE TO AND FROM COURTHOUSES--REQUIRING JUDICIAL
APPROVAL.--

A. No arrests shall be made upon any person,
including parties to a case, counsel in a case, witnesses,
victims of a crime or family or household members of parties on
any court property or en route to or from any court unless the
arrest is authorized by a judicially issued warrant. Execution
or attempted execution of an arrest without a judicially issued
warrant constitutes contempt of court.

B. A law enforcement officer making an arrest in a

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1 courthouse may do so only after presenting a judicially issued
2 warrant to the judge presiding over the proceedings that the
3 arrestee is at the courthouse to attend.

4 C. As used in this section, "judicially issued
5 warrant" means an arrest warrant that is signed by a federal or
6 state judge.

7 SECTION 2. [NEW MATERIAL] WRIT OF PROTECTION.--

8 A. In the following manner, any person in a
9 judicial proceeding may petition, under seal, for the issuance
10 of a writ of protection to prevent the person from being
11 arrested by a law enforcement agent for the purposes of
12 traveling to, staying and leaving the court for the judicial
13 proceeding:

14 (1) for judicial proceedings in a district
15 court, the person shall seek a writ of protection from the
16 judge presiding over the proceeding;

17 (2) for judicial proceedings in a magistrate,
18 metropolitan or municipal court, the person shall seek a writ
19 of protection from the district court in the magistrate,
20 metropolitan or municipal court's judicial district; or

21 (3) for judicial proceedings in the court of
22 appeals or supreme court, the person shall seek a writ of
23 protection from the supreme court.

24 B. Upon denial of a writ of protection pursuant to
25 Paragraph (1) or (2) of Subsection A of this section, a person

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1 may seek a writ of protection from the supreme court.

2 C. A petition for a writ of protection must
3 provide, by a preponderance of the evidence:

4 (1) an account of why the person believes that
5 the person may be subject to arrest at or en route to or from
6 the courthouse;

7 (2) an explanation of how an arrest would
8 impede the person's ability to participate in the judicial
9 proceeding; and

10 (3) the judicial proceeding that the person is
11 attending.

12 D. Execution or attempted execution of an arrest in
13 violation of a writ of protection constitutes criminal contempt
14 of court.