

STATE OF MICHIGAN
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The Honorable Justices of the Supreme Court
Michigan Hall of Justice
925 W. Ottawa St.
Lansing, MI 48915

Via Email: ADMcomment@courts.mi.gov

Re: Support for proposed amendment to MCR 8.115;
ADM File No. 2025-14

Dear Honorable Justices of the Supreme Court:

I write to express my support for the proposed amendment to MCR 8.115, which would generally prohibit civil arrest of an individual who attends a court proceeding or has other business in a courthouse.

The fair administration of justice is a fundamental right that is dependent upon the participation of the people, and that participation requires access to the courthouse. Creating an environment in which individuals—whether they be crime victims, parties, or witnesses—are afraid to participate hinders that access and, consequently, the fair administration of justice. And discouraging individuals from accessing the courthouse for reasons such as observing proceedings, viewing a court record, or ordering a transcript erodes public trust in the system. The proposed amendment would help alleviate these negative impacts and thereby encourage participation and maintain accountability in the fair administration of justice.

The amended rule would broadly prohibit any person from being subject to *civil* arrest in regard to any matter, and such a rule would be no outlier. Other states have enacted similar prohibitions. For example, New York (NY Civil Rights Law, § 28(1)), Connecticut (Connecticut Public Act, 25-3), and Illinois (Illinois Public Act 104-0440) each have laws that protect certain individuals from civil arrest in courthouses.

Encompassed within the broad language of the amended rule would be limitations on civil arrests made by U.S. Immigration and Customs Enforcement

December 18, 2025

(ICE) officers in administrative and non-criminal matters. Significantly, the New York statute was recently upheld by a federal court in a lawsuit brought by the Department of Justice that focused on civil arrests made by ICE. *United States v New York*, __ F Supp 3d __ (November 17, 2025); 2025 WL 3205011. In dismissing the action, the federal district court recognized that “ICE’s own prior policies” urged discretion in enforcement activities that “may deter individuals from reporting crimes and from pursuing actions to protect their civil rights.” *Id.* at *7 (cleaned up). This included a policy that civil enforcement actions, such as arrests, could be made “in or near a courthouse” only in limited circumstances, “so as not to unnecessarily impinge upon the core principle of preserving access to justice.” See Memorandum on Civil Immigration Enforcement Actions in or near Courthouses from Department of Homeland Security to U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection (April 27, 2021).

The existence of, and ICE’s compliance with, its own prior policies shows that ICE can carry out its operations without making civil arrests in a courthouse. And there is nothing in the proposed amendment to suggest otherwise, as the amended rule would not violate any obligations the courts have to ICE, invalidate an ICE warrant, prevent a civil arrest on an ICE warrant in locations other than a courthouse, or prevent ICE from making arrests in a courthouse pursuant to a judicial warrant. All told, the impact of the proposed amendment on ICE’s operations will be minimal, and any impact is far outweighed by the need to protect and preserve the people’s fundamental right to participation and accountability in the fair administration of justice.

For all these reasons, I encourage the Supreme Court to adopt the proposed amendment to MCR 8.115 in order to ensure participation in and access to our courts.

Sincerely,



Dana Nessel
Attorney General