

# PROTECT OUR COURTS ACT

## Talking Points

A.02176/S.00425

1. **An unprecedented increase in ICE arrests interferes with the state's court system.**
  - The Immigrant Defense Project documented a 1700% increase in ICE courthouse operations from 2016 to 2018.
  - The surge in ICE arrests has made immigrants and their families fearful of going to a wide range of courts including criminal court, family court, and housing court.
  - This means domestic violence survivors aren't getting orders of protection, tenants aren't bringing complaints against abusive landlords, and people facing criminal charges are denied their fair day in court.
2. **ICE's courthouse arrests undermine safety and security for all New Yorkers.**
  - Prosecutors across the state have endorsed the bill because they say ICE's presence in the courts is making victims and witnesses fearful of coming to court.
  - Two-thirds of advocates who work with survivors of violence say their clients have declined to seek protective orders and other help from the courts due to fear of ICE.
  - More than half of housing rights advocates surveyed have clients who are too scared to file a housing court complaint because of ICE being in court.
3. **This bill will help ensure access to courts for ALL New Yorkers regardless of immigration status.**
  - Our constitution guarantees access to the courts to ALL New Yorkers, regardless of immigration status.
  - Equal access to our courts is vital to our democracy and central to everything that New York stands for.
4. **This bill will help protect the fundamental constitutional right of all New Yorkers to have their fair day in court.**
  - ICE snatches immigrants from court when they're in the middle of defending themselves against criminal charges.
  - Once ICE detains someone, they can refuse to send them back to state court, meaning that the person never gets their fair day in court.
  - This not only violates basic constitutional rights, it derails our state's criminal justice system.
5. **The legislature has the power to protect the state's courts from ICE.**
  - ICE is exploiting the state's courts by using them as a hunting ground for immigrants.
  - When an outside agency interferes with our courts, we have a duty to protect them.
  - The state constitution gives New York's legislature clear authority to regulate the court system to ensure that they operate effectively and serve EVERY New Yorker.

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## Prosecutor Statements

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### **Westchester DA Anthony A. Scarpino, Jr.**

**"The growing presence of Immigration and Customs Enforcement (ICE) agents in Westchester courts undermines our efforts to effectively investigate and prosecute crimes.** When ICE uses our local courthouses to make civil immigration arrests, both immigrants who are victims of or witnesses to domestic violence, scams, wage theft or violent crimes are now fearful that coming to court may lead to arrest by ICE. How can justice be served if some of our most vulnerable are afraid to come forward? I support the Protect Our Courts Act to ensure a fair and equitable system, and a safer and more secure community."

### **Nassau DA Madeline Singas**

**"New York's justice system works best when everyone has access.** Immigrants who are victims of domestic violence, wage theft, fraud, or violent crime should be able to seek justice regardless of their status, and they should be able to come to court for that purpose without fear that their appearance will lead to civil arrest by ICE."

### **Albany DA David Soares**

**"Courthouses should be safe spaces for everyone.** Prosecutors, advocates and police have spent decades researching and applying best practices in an effort to encourage the reporting of violent crimes, including sexual assaults and domestic violence crimes. Demagoguery of the issue has caused fear and concern in many citizens and has led to decreased reporting. **The activities of Immigration and Customs Enforcement is compromising our ability to hold accountable perpetrators who prey upon victims from vulnerable immigrant communities."**

### **Bronx DA Darcel D. Clark**

**"I endorse the Protect Our Courts Act because, as the Bronx District Attorney, I encourage people to report crimes... If a victim or witness who is essential to the prosecution of a heinous case is arrested by Immigration and Customs Enforcement when he or she shows up at the courthouse, we cannot go forward with the case, resulting in cases being dismissed and dangerous individuals being released back into the community. This could have a chilling effect on getting witnesses to assist in our cases, potentially resulting in a threat to public safety."**

### **Brooklyn DA Eric Gonzalez**

**"These actions jeopardize public safety by instilling fear in immigrant communities, which makes victims and witnesses afraid to come forward to report crimes, and unable to get justice.** Keeping Brooklyn safe and strengthening community trust in law enforcement are my top priorities as Brooklyn DA, and ICE's actions undermine those important goals. I support the efforts to end this misguided practice."

### **Manhattan DA Cyrus Vance, Jr.**

**"Deporting New Yorkers who show up to court is antithetical to our values and detrimental to our public safety.** The fear of unjust deportation stops crime victims from coming forward, and stops defendants from responsibly attending their court dates. I thank Assembly Member Solages for her work on this bill and urge the legislature to pass it immediately, because all New Yorkers have the right to safely access our courts, whether they are documented or undocumented under federal law."

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## Stories

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### Afraid to Get a Restraining Order

A mother showed up to My Sister's Place, a Rockland County legal services organization, with her head bandaged. When the attorney asked what happened, the woman said that the father of her children had raped her in a parking lot and severely beat her on the head with "metal things." The woman suffered neurological damage and permanent vision loss as a result.

When asked why she did not report it to the police and seek a restraining order in Family Court, she told the attorney that she was too afraid of being picked up by ICE. - *As reported by Andrea Panjwani, Esq., Former Managing Attorney, My Sister's Place*

### A Bronx Man who Came to the U.S. at Age 3

A young man who came to the U.S. at the age of 3 was ambushed by a team of 8-10 ICE officers outside of a Bronx courthouse. Originally from the Ivory Coast, the Bronx man had big plans for building a life with his U.S. citizen wife. He was working as a barrista, had recently applied to college, and was in the process of applying for a green card. On the day that ICE grabbed him, he was in court on a misdemeanor case and had no prior criminal record.

When news of his arrest spread, close to a hundred public defenders walked out of the courthouse in protest. - *As reported by Casey Dalporto, Esq., The Legal Aid Society*

### Victims of Human Trafficking

When a 29 year-old Chinese woman showed up to the Queens Human Trafficking Intervention Court last June, she stepped into a courtroom designed to be a safe space for victims of human trafficking. She, like most of the women appearing that day, was charged with a prostitution related offense. Instead of a fine and jail time, she was expected to get help.

But that day, two plainclothes ICE officers watched her and other women appearing in the courtroom. Thanks to quick thinking by her attorneys, the young woman was not taken away by ICE. But later that day, the ICE agents arrested another woman just minutes after she left the human trafficking court. - *As reported by WNYC and The New York Times*

### A Witness Goes Silent in Housing Court

Soon after the first reports of arrests in New York State Courts, a housing rights advocate had a concerning interaction with a long-term client. The client, a green card holder, was a long-time member of a tenant association in Cypress Hills, Brooklyn, and was married to an undocumented man. The attorney had been working with her to enforce her succession rights and had been preparing for trial.

Suddenly, the client informed the attorney that her husband—a key witness in the case—wouldn't feel comfortable going to court. The attorney was unable to continue the case. - *As reported by Katherine LeGeros Bajuk, Esq., New York County Defender Service*

### A History of Suicide Attempts; ICE Shrugs

Her client trembled when she broke the news. Katherine, a mental health specialist from New York County Defender Services, had just told her that ICE agents were there to arrest her.

Katherine had pleaded with the plainclothes agents not to take her client away. She had had a string of arrests but was finally getting treatment for her underlying mental health issues. She had already made several suicide attempts and Katherine feared that if she was locked up in ICE custody, her client might have a psychotic break.

She told all this to the ICE agents. They just shrugged. When she asked to see the warrant for her client's arrest, they refused to produce anything. - *As reported by Katherine LeGeros Bajuk, Esq., New York County Defender Service*

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## Frequently Asked Questions

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### What will the Protect Our Courts Act do?

The Protect Our Courts act makes it unlawful for any law enforcement officer (including Immigration and Customs Enforcement) to arrest a person for a *civil* violation while that person is going to, attending, or leaving court *unless* a judicial warrant or court order authorizing the arrest is presented to court staff.

It also prohibits law enforcement officers from outside of New York (including ICE) from entering a courthouse to enforce federal immigration law, unless they present a valid judicial warrant or court order authorizing the arrest.

### How will the Protect our Courts Act protect people from ICE?

ICE arrests people for *civil* violations of federal immigration law. By making *civil* arrests unlawful, this bill will effectively stop ICE from making arrests in our courts.

The only way ICE can make an arrest under this law is by presenting a valid judicial warrant or court order from a federal judge, a requirement that has effectively stopped ICE arrests in other contexts.

### Who will the Protect Our Courts Act protect?

The law will protect *any* person who is a party or potential witness in a court proceeding in New York state. This includes victims, witnesses, defendants, and anyone who is part of a non-criminal proceeding such as a family or housing court matter.

It will also protect any family or household members who are part of a court proceeding or potential witnesses.

### Where will the Protect Our Courts Act protect people from arrest?

The bill protects people from arrest not only inside of a courthouse, but while they are going to the courthouse or leaving it. The exact boundaries of this protection are not spelled out in the legislation but would likely extend to the area within sight of the courthouse.

This concept of a zone of protection against civil arrest while attending court already exists in New York's civil rights law and has a long history in U.S. law. This concept was developed to prevent law enforcement agencies from using people's attendance in court as a way to arrest them on civil matters.

### How will the Protect Our Courts Act be enforced?

The bill includes several enforcement measures. It empowers judges to hold any person who violates the law in contempt of court. It also instructs the New York Attorney General to pursue legal action on behalf of individuals who are arrested in violation of this law. In addition, the bill recognizes that individuals have a right to pursue legal claims when they are arrested.

### How will the Protect Our Courts Act be implemented?

The Office of Court Administration will designate attorneys to review any judicial warrants or court orders presented before allowing non-local law enforcement (including ICE) to enter a courthouse in order to make a *civil* arrest. The bill also requires that the court document any warrants or court orders presented to its staff.

The Office of Court Administration will also need to adopt rules explaining how it will implement this legislation.

ICE Out of Courts Coalition. More info at [immdefense.org/ice-courts-nys/](http://immdefense.org/ice-courts-nys/)