

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2034 Session of  
2009

INTRODUCED BY METCALFE, CREIGHTON, MUSTIO, BARRAR, BEAR, CLYMER,  
COX, CUTLER, DENLINGER, EVERETT, GROVE, HUTCHINSON, KRIEGER,  
MOUL, PHILLIPS, RAPP, READSHAW, ROCK, SCHRODER, SONNEY,  
STEVENSON, SWANGER AND VULAKOVICH, OCTOBER 9, 2009

REFERRED TO COMMITTEE ON STATE GOVERNMENT, OCTOBER 9, 2009

AN ACT

1 Providing for sanctuary municipality financial penalties.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Sanctuary

6 Municipalities Financial Penalty Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall

9 have the meanings given to them in this section unless the

10 context clearly indicates otherwise:

11 "Commonwealth agency." The term shall have the same meaning  
12 as provided in 2 Pa.C.S. § 101 (relating to definitions).

13 "Commonwealth appropriation." Any direct appropriation of  
14 Commonwealth funds or any direct or indirect expenditure of  
15 Commonwealth funds by a Commonwealth agency. The term shall not  
16 include any funds provided or expended for any of the following:

- 1           (1) Law enforcement or corrections purposes.
- 2           (2) The operation of courts.
- 3           (3) Emergency preparedness or disaster response.
- 4           (4) Medical services.

5       "Municipality." A municipality as defined in 1 Pa.C.S. §  
6 1991 (relating to definitions).

7       "Sanctuary municipality." A municipality which has adopted  
8 ordinances, policies or procedures to encourage unauthorized  
9 aliens to reside in the municipality. The term shall include  
10 ordinances, policies or procedures which do any of the  
11 following:

12           (1) Prohibit, restrict or discourage municipal employees  
13 from sending, receiving or maintaining information regarding  
14 the immigration status, lawful or unlawful, of any individual  
15 or exchanging the information with any other Federal, State  
16 or local government entity.

17           (2) Prohibit, restrict or discourage municipal employees  
18 from asking individuals their citizenship or immigration  
19 status.

20           (3) Provide public benefits, unless required by Federal  
21 or State statutes or court decisions, except for any of the  
22 following:

23                   (i) Emergency medical care.

24                   (ii) Law enforcement, arrest, prosecution,  
25 incarceration, detainment and related expenses.

26                   (iii) Benefits provided to the public at large, such  
27 as maintenance of roads, sidewalks, public parks and  
28 similar government property.

29       "Secretary." The Secretary of State of the Commonwealth.

30       "Unauthorized alien." An alien who is not lawfully present

1 within the United States.

2 Section 3. Financial penalty.

3 A Commonwealth appropriation to benefit a municipality or the  
4 residents of a municipality which municipality fails to  
5 cooperate in an investigation under this act or has been  
6 designated a sanctuary municipality under this act shall be  
7 placed in an escrow account and shall not be released until at  
8 least 30 days after the secretary certifies that the  
9 municipality has taken corrective action as provided under  
10 section 4(g) or renewed cooperation as provided under section  
11 4(e).

12 Section 4. Sanctuary municipality designation.

13 (a) Determination.--The secretary shall determine whether a  
14 municipality is a sanctuary municipality as provided under this  
15 section.

16 (b) Complaint.--An enforcement action shall be initiated by  
17 means of a written, signed complaint to the secretary's office  
18 and shall be submitted by a Commonwealth resident. A valid  
19 complaint shall include an allegation which describes the  
20 ordinances, policies or procedures adopted by a municipality to  
21 encourage unauthorized aliens to reside within the municipality.

22 (c) Investigation.--Upon receipt of a valid complaint, the  
23 secretary shall request information from the municipality which  
24 is the subject of the complaint. The requested information may  
25 include any of the following:

26 (1) Copies of any ordinances, resolutions, policy  
27 manuals or employee handbooks.

28 (2) Copies of any electronic mail, letters, memoranda or  
29 other communications with or to employees of the  
30 municipality.

1           (3) Any other information needed to make a determination  
2       under this section.

3       (d) Procedure.--The secretary shall, by regulation,  
4       establish a procedure and timeline for municipalities to do all  
5       of the following:

6           (1) Respond to requests under subsection (c).

7           (2) Cooperate with ongoing investigations.

8       (e) Cooperation.--Any municipality which fails to cooperate  
9       with an investigation by the secretary under this section shall  
10      be subject to the same penalties as a municipality which has  
11      been determined to meet the definition of a "sanctuary  
12      municipality" under subsection (f). Notice of either failure to  
13      cooperate or certification that cooperation has been renewed  
14      shall be published as follows:

15           (1) In the Pennsylvania Bulletin.

16           (2) On the Internet website of the Department of State.

17      (f) Determination of sanctuary status.--If, after  
18      investigation, the secretary determines by a preponderance of  
19      the evidence that the municipality meets the definition of a  
20      "sanctuary municipality," the secretary shall provide notice of  
21      that determination to the municipality. The notice shall include  
22      a list of specific ordinances, policies or procedures which  
23      encourage unauthorized aliens to reside in the municipality. The  
24      secretary shall publish a summary of the notice as follows:

25           (1) In the Pennsylvania Bulletin.

26           (2) On the Internet website of the Department of State.

27      (g) Correction.--Any municipality which the secretary  
28      determines to be a sanctuary municipality shall repeal any  
29      ordinance or cease any policy or procedure which encourages  
30      unauthorized aliens to reside in the municipality. The secretary

1 shall, upon receipt of sufficient evidence that a municipality  
2 has taken corrective action to repeal the ordinance or cease the  
3 policy or procedure, publish a certification of the corrective  
4 action as follows:

5 (1) In the Pennsylvania Bulletin.

6 (2) On the Internet website of the Department of State.

7 Section 5. Duty of Commonwealth agencies.

8 (a) Review.--On a daily basis, each Commonwealth agency  
9 shall review notices posted pursuant to section 4(e), (f) and  
10 (g) on the Internet website of the Department of State.

11 (b) Compliance.--Each Commonwealth agency shall comply with  
12 the requirements of section 3 based on the daily review under  
13 subsection (a).

14 (c) Immunity.--A Commonwealth agency or employee of a  
15 Commonwealth agency shall be immune from liability resulting  
16 from the imposition of the financial penalty under section 3 if  
17 the agency complied in good faith with the requirements of this  
18 act.

19 Section 6. Commonwealth agency law.

20 The provisions of this act shall be subject to 2 Pa.C.S. Ch.  
21 5 Subch. A (relating to practice and procedure of Commonwealth  
22 agencies) and Ch. 7 Subch. A (relating to judicial review of  
23 Commonwealth agency action).

24 Section 7. Effective date.

25 This act shall take effect in 60 days.