

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 865 Session of 2011

INTRODUCED BY KNOWLES, METCALFE, BAKER, BARRAR, CLYMER, COX, CUTLER, GABLER, GEIST, GILLEN, GROVE, HEFFLEY, HUTCHINSON, KAUFFMAN, KRIEGER, METZGAR, MILLER, MUSTIO, O'NEILL, READSHAW, ROCK, VULAKOVICH AND SWANGER, MARCH 1, 2011

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 19, 2011

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in matters affecting
3 government units, providing for exceptions to governmental
4 immunity related to unauthorized aliens.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 42 of the Pennsylvania Consolidated Statutes
8 is amended by adding a section to read:

9 § 8543. Exceptions to governmental immunity related to
10 unauthorized aliens.

11 (a) Liability imposed.--A sanctuary municipality shall be
12 liable for damages on account of an injury to a person or
13 property as a result of criminal activity by an unauthorized
14 alien if all of the following conditions are satisfied:

15 (1) FEDERAL IMMIGRATION OFFICIALS HAVE DETERMINED THAT
16 THE PERSON WHO ENGAGED IN THE CRIMINAL ACTIVITY IS AN
17 UNAUTHORIZED ALIEN.



1 ~~(1)~~ (2) The unauthorized alien has been IS a resident of ←
2 the sanctuary municipality for at least six months. ←

3 ~~(2)~~ (3) The unauthorized alien is convicted of a THE ←
4 crime THAT CAUSED THE INJURY. ←

5 ~~(3)~~ (4) The criminal activity is a proximate cause of ←
6 the injury.

7 (b) Definitions.--As used in this section, the following
8 words and phrases shall have the meanings given to them in this
9 subsection:

10 "Municipality." A municipality as defined under 1 Pa.C.S. §
11 1991 (relating to definitions).

12 ~~"Sanctuary municipality." A municipality which has adopted~~ ←
13 ~~ordinances, policies or procedures to encourage unauthorized~~
14 ~~aliens to reside in the municipality. The term shall include~~
15 ~~ordinances, policies or procedures which do any of the~~
16 ~~following:~~

17 ~~(1) Prohibit, restrict or discourage municipal employees~~
18 ~~from sending, receiving or maintaining information regarding~~
19 ~~the immigration status, lawful or unlawful, of any~~
20 ~~individual, or exchanging the information with any other~~
21 ~~Federal, State or local government entity.~~

22 ~~(2) Prohibit, restrict or discourage municipal employees~~
23 ~~from asking individuals their citizenship or immigration~~
24 ~~status.~~

25 ~~(3) Provide public benefits, unless required by Federal~~
26 ~~or State statutes or court decisions, with the exception of~~
27 ~~any of the following:~~

28 ~~(i) Emergency medical care.~~

29 ~~(ii) Law enforcement, arrest, prosecution,~~
30 ~~incarceration, detainment and related expenses.~~

1 ~~(iii) Benefits provided to the public at large,~~
2 ~~including maintenance of roads, sidewalks, public parks~~
3 ~~and similar government property.~~

4 "SANCTUARY MUNICIPALITY." ANY MUNICIPALITY THAT PROHIBITS OR ←
5 IN ANY WAY RESTRICTS AN OFFICIAL OR EMPLOYEE OF THE MUNICIPALITY
6 FROM:

7 (1) SENDING TO OR RECEIVING FROM FEDERAL IMMIGRATION
8 OFFICIALS INFORMATION REGARDING THE CITIZENSHIP OR
9 IMMIGRATION STATUS, LAWFUL OR UNLAWFUL, OF AN INDIVIDUAL;

10 (2) DOING ANY OF THE FOLLOWING WITH RESPECT TO
11 INFORMATION REGARDING THE IMMIGRATION STATUS, LAWFUL OR
12 UNLAWFUL, OF AN INDIVIDUAL:

13 (I) SENDING SUCH INFORMATION TO OR REQUESTING SUCH
14 INFORMATION FROM FEDERAL IMMIGRATION OFFICIALS;

15 (II) MAINTAINING SUCH INFORMATION; OR

16 (III) EXCHANGING SUCH INFORMATION WITH OTHER FEDERAL
17 AGENCIES, STATE AGENCIES OR MUNICIPALITIES;

18 (3) INQUIRING ABOUT AN INDIVIDUAL'S NAME, DATE AND PLACE
19 OF BIRTH AND IMMIGRATION STATUS;

20 (4) REQUESTING AN APPLICANT WHO APPLIES FOR A STATE OR
21 LOCAL PUBLIC BENEFIT AS DEFINED BY SECTION 411(C) OF THE
22 PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION
23 ACT OF 1996 (PUBLIC LAW 104-193, 8 U.S.C. § 1621(C)) TO
24 PROVIDE PROOF OF ELIGIBILITY TO RECEIVE THE STATE OR LOCAL
25 PUBLIC BENEFIT.

26 "Unauthorized alien." An alien who is not lawfully present
27 within the United States AS DETERMINED BY FEDERAL IMMIGRATION ←
28 OFFICIALS.

29 Section 2. This act shall take effect in 60 days.