

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 226

Session of
1974

INTRODUCED BY MESSRS. FINEMAN, PRENDERGAST, IRVIS, SPENCER
AND BUTERA, NOVEMBER 13, 1974

REFERRED TO COMMITTEE ON RULES, NOVEMBER 13, 1974

In the House of Representatives, November 13, 1974

1 WHEREAS, The Pennsylvania Supreme Court over the last few
2 years has been repeatedly called upon to reject the legal
3 defenses to personal injury cases known as "sovereign immunity,"
4 "governmental immunity," and "charitable immunity"; and

5 WHEREAS, In 1965 the court abolished charitable immunity and
6 in 1973 governmental immunity. However, the court has
7 specifically held that the proper forum to debate the present
8 vitality of sovereign immunity is the General Assembly, rather
9 than the judicial branch. The court noted its concern over "the
10 Legislature's failure to act as speedily and comprehensively
11 [with regard to sovereign immunity] as we believe it should";
12 and

13 WHEREAS, The Constitution of the Commonwealth provides in
14 Article I, section 11, that " . . . Suits may be brought against
15 the Commonwealth in such manner, in such courts and in such
16 cases as the Legislature may by law direct." Clearly, the
17 responsibility for determining the present necessity for
18 sovereign immunity is the exclusive prerogative of the General

1 Assembly; and

2 WHEREAS, In eighteen other states sovereign immunity has been
3 abolished as a defense, in eleven of those by legislative rather
4 than judicial action; therefore be it

5 RESOLVED, That the Joint State Government Commission conduct
6 a thorough review and analysis of the benefits and costs
7 accruing from a statutory revision or abolition of the sovereign
8 immunity defense; the commission may call upon the Department of
9 Justice and any other governmental agencies for cooperation in
10 the conduct of this study; and be it further

11 RESOLVED, That the Joint State Government Commission submit a
12 report of its findings and recommendations to the General
13 Assembly together with such proposed legislation as is necessary
14 to carry out its findings.