

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 10 Session of 2017

INTRODUCED BY RESCHENTHALER, ALLOWAY, VULAKOVICH, FOLMER, REGAN, SCARNATI, ARGALL, MCGARRIGLE, VOGEL, BARTOLOTTA, EICHELBERGER, AUMENT, WARD, WHITE, RAFFERTY, MARTIN, WAGNER, DISANTO, HUTCHINSON, CORMAN, STEFANO AND YAW, JANUARY 20, 2017

SENATOR WAGNER, LOCAL GOVERNMENT, AS AMENDED, JANUARY 25, 2017

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 53
2 (Municipalities Generally) of the Pennsylvania Consolidated
3 Statutes, in matters affecting government units, further
4 providing for exceptions to governmental immunity; and, in
5 preemptions, providing for municipality of refuge.

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

8 Section 1. Section 8542 of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended by adding a subsection to read:

10 § 8542. Exceptions to governmental immunity.

11 * * *

12 (a.1) Liability imposed on municipality of refuge.--

13 (1) Notwithstanding subsection (a), a municipality of
14 refuge shall be liable for damages on account of an injury to
15 a person or property within the limits set forth in this
16 subchapter if the injury was caused by the act of an
17 individual that was in the custody of the law enforcement
18 agency of the municipality of refuge and was released,

1 notwithstanding the existence of a United States Immigration
2 and Customs Enforcement civil immigration detainer request
3 for the individual.

4 (2) As used in this subsection, the term "municipality
5 of refuge" shall have the same meaning as given to the term
6 in 53 Pa.C.S. § 305 (relating to municipality of refuge).

7 * * *

8 Section 2. Title 53 is amended by adding a section to read:
9 § 305. Municipality of refuge.

10 (a) Enforcement.--The following shall enforce each law,
11 mandate, request and order of the Federal Government relating to
12 immigration, if the law, mandate, request or order does not
13 conflict with the rights guaranteed under the Pennsylvania <--
14 Constitution or the United States Constitution CONSTITUTION OF <--
15 THE UNITED STATES OR THE CONSTITUTION OF PENNSYLVANIA:

16 (1) The governing body of any municipality.

17 (2) An officer or employee of any municipality.

18 (3) A law enforcement official or a law enforcement
19 agency.

20 (4) A district attorney.

21 (b) Immigration.--The governing body of any municipality may
22 not adopt a rule, order, ordinance or policy which prohibits the
23 enforcement of a Federal law or the laws of this Commonwealth,
24 pertaining to an immigrant or immigrations.

25 (c) Eligibility.--A law enforcement agency or municipality
26 that refuses to enforce an immigration order shall not be
27 eligible:

28 (1) for any State grant for law enforcement; or <--

29 (2) to participate in the sale of State surplus
30 property.

1 (d) Reinstatement.--A law enforcement agency or municipality
2 that has lost eligibility under subsection (c) may be reinstated
3 for eligibility by providing proof to the appropriate State
4 agency that it is currently enforcing immigration orders and
5 that it has rescinded any rule, order, ordinance or policy
6 described under subsection (b).

7 (e) Applicability.--This section shall not apply to an
8 individual or entity under subsection (a) that has made an
9 attempt to coordinate with a Federal agency pursuant to an
10 immigration order to transfer the custody of a suspect in
11 question but was unable to do so.

12 (f) Definitions.--As used in this section, the following
13 words and phrases shall have the meanings given to them in this
14 subsection unless the context clearly indicates otherwise:

15 "Municipality." Any county, city, borough, incorporated
16 town, township, home rule municipality, optional plan
17 municipality, optional charter municipality or any similar
18 general purpose unit of government which may be created or
19 authorized by statute.

20 "Municipality of refuge." A municipality that permits the
21 release of an individual in the custody of the law enforcement
22 agency of the municipality notwithstanding the existence of a
23 United States Immigration and Customs Enforcement civil
24 immigration detainer request for the individual.

25 Section 3. This act shall take effect in 60 days.