AN ACT

Amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in preemptions, providing for exceptions to governmental immunity, preemption and cooperation.

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

Section 1. Title 53 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 306. Exceptions to governmental immunity, preemption and cooperation.

(a) Preemption.--A municipality may not adopt or enforce a policy that prohibits or materially limits a law enforcement agency, law enforcement officer, corrections officer, parole officer, judicial officer or judicial staff from enforcing immigration laws, including the following:

(1) Compliance with subsection (b).

(2) Assisting or cooperating with an officer from the United States Citizenship and Immigration Services, United
States Immigration and Customs Enforcement or another Federal agency regarding immigration laws, including providing enforcement assistance.

(3) Permitting an officer from the United States Citizenship and Immigration Services, United States Immigration and Customs Enforcement or another Federal agency to enter a county correctional institution, including for the purpose of interviewing an individual in custody at the institution or enforcing immigration laws.

(4) Inquiring into the immigration status of an individual in custody.

(5) With respect to information relating to the release date or immigration status of an individual in custody, including information relating to name, date and place of birth:

(i) Sending the information to or requesting or receiving the information from the United States Citizenship and Immigration Services, United States Immigration and Customs Enforcement or another Federal agency.

(ii) Maintaining the information.

(iii) Exchanging the information with another municipality or Federal or State agency.

(b) Cooperation.--

(1) Except as provided in paragraph (3), a law enforcement agency or municipality that has custody of an individual subject to an immigration detainer request issued by the United States Immigration and Customs Enforcement shall:

(i) Comply with, honor and fulfill any request made
(ii) Inform the individual that the individual is being held pursuant to an immigration detainer request issued by the Federal Government.

(2) A law enforcement agency or municipality shall provide any information requested by the United States Citizenship and Immigration Services, United States Immigration and Customs Enforcement or another Federal agency relating to the release date or immigration status of any individual in its custody, including information relating to name, date and place of birth.

(3) Paragraph (1) shall not apply if an individual provides proof that the individual is a citizen of the United States or has lawful immigration status in the United States.

(c) Denial of State funds.--

(1) Notwithstanding any other provision of law, a municipality may not receive State funds if the municipality adopts, enforces or endorses a policy under which the municipality prohibits or discourages the enforcement of immigration laws or, by consistent actions, prohibits or discourages the enforcement of immigration laws.

(2) State funds for a municipality shall be denied for the fiscal year following the year in which the municipality adopted, enforced or endorsed a policy under which the municipality prohibited or discouraged the enforcement of immigration laws or, by consistent actions, prohibited or discouraged the enforcement of immigration laws.

(d) Exceptions to governmental immunity related to aliens.-- A municipality shall be liable for damages on account of an injury to a person or property as a result of criminal activity...
by an alien if all of the following conditions are satisfied:

(1) Prior to engaging in the criminal activity, the alien was released from custody by a law enforcement agency of the municipality in disregard of an immigration detainer request.

(2) The alien is convicted of criminal charges stemming from the criminal activity.

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

"Corrections officer." As defined in 61 Pa.C.S. § 102 (relating to definitions).

"County correctional institution." As defined in 61 Pa.C.S. § 102.

"Immigration detainer request." A request by a Federal agency to maintain temporary custody of an alien, including a United States Homeland Security Form I-247 document or a similar or successor form.

"Immigration laws." Federal laws, regulations and policy memoranda relating to aliens, immigrants or immigration, including the Immigration and Nationality Act (66 Stat. 163, 8 U.S.C. § 1101 et seq.) and 8 CFR (relating to aliens and nationality).

"Judicial officer." As defined in 42 Pa.C.S. § 102 (relating to definitions).

"Judicial staff." Administrative staff, as that term is defined in 42 Pa.C.S. § 102.

"Law enforcement agency." The Office of Attorney General, a district attorney's office or an agency that employs a law enforcement officer.
"Law enforcement officer." An officer of the United States, another state or political subdivision thereof, or of the Commonwealth or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in 18 Pa.C.S. (relating to crimes and offenses) or an equivalent crime in another jurisdiction and any attorney authorized by law to prosecute or participate in the prosecution of an offense.

"Municipality." A county, city, borough, incorporated town, township, home rule municipality, optional plan municipality, optional charter municipality or a similar general purpose unit of government created or authorized by statute.

"Parole officer." A State parole agent appointed by the Pennsylvania Board of Probation and Parole or a county probation or parole officer of the Commonwealth.

"Policy." An ordinance, resolution, regulation, rule, practice or other action, whether formal or informal, promulgated or enforced by a municipality.

Section 2. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or applicability.

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