

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 653 Session of
1995

INTRODUCED BY FISHER AND WAGNER, MARCH 2, 1995

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, MAY 2, 1995

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 WRONGFUL DEATH ACTIONS AND FOR exceptions to governmental <—
4 immunity.

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

7 ~~Section 1. Section 8542(b)(1) of Title 42 of the~~ <—
8 ~~Pennsylvania Consolidated Statutes is amended and the section is~~
9 ~~amended by adding a subsection to read:~~

10 SECTION 1. SECTION 8301(A) OF TITLE 42 OF THE PENNSYLVANIA <—
11 CONSOLIDATED STATUTES IS AMENDED TO READ:

12 § 8301. DEATH ACTION.

13 (A) GENERAL RULE.--AN ACTION MAY BE BROUGHT, UNDER
14 PROCEDURES PRESCRIBED BY GENERAL RULES, TO RECOVER DAMAGES FOR
15 THE DEATH OF AN INDIVIDUAL CAUSED BY THE WRONGFUL ACT OR NEGLIGENCE
16 OR UNLAWFUL VIOLENCE OR NEGLIGENCE OF ANOTHER IF NO [ACTION FOR
17 DAMAGES WAS BROUGHT BY THE INJURED INDIVIDUAL DURING HIS
18 LIFETIME.] RECOVERY FOR THE SAME DAMAGES CLAIMED IN THE WRONGFUL

1 DEATH ACTION WAS OBTAINED BY THE INJURED INDIVIDUAL DURING HIS
2 LIFETIME.

3 * * *

4 SECTION 2. SECTION 8542(B)(1) IS AMENDED AND THE SECTION IS
5 AMENDED BY ADDING A SUBSECTION TO READ:

6 § 8542. Exceptions to governmental immunity.

7 * * *

8 (b) Acts which may impose liability.--The following acts by
9 a local agency or any of its employees may result in the
10 imposition of liability on a local agency:

11 (1) Vehicle liability.--The operation of any motor
12 vehicle in the possession or control of the local agency[.],
13 provided that the local agency shall not be liable to any
14 plaintiff that claims liability under this subsection if the
15 plaintiff was, during the course of the alleged negligence,
16 resisting surrender to an officer of the peace IN FLIGHT OR <—
17 FLEEING APPREHENSION, OR RESISTING ARREST BY A POLICE OFFICER
18 or was knowingly and willingly participating in a group in <—
19 which AIDED A GROUP one or more OF WHOSE members were <—
20 resisting surrender to an officer of the peace IN FLIGHT OR <—
21 FLEEING APPREHENSION, OR RESISTING ARREST BY A POLICE
22 OFFICER. As used in this paragraph, "motor vehicle" means any
23 vehicle which is self-propelled and any attachment thereto,
24 including vehicles operated by rail, through water or in the
25 air.

26 * * *

27 (d) Evidence.--Whenever any plaintiff claims liability under
28 this section SUBSECTION (B)(1), evidence is admissible to <—
29 demonstrate that the plaintiff, at any time during the course of
30 the alleged negligence, was engaged or participating in willful

1 misconduct, including, but not limited to, the illegal
2 possession of controlled substances, firearms or ammunition.

3 Section ~~2~~ 3. This act shall apply to a cause of action that <—
4 accrues on or after the effective date of this act.

5 Section ~~3~~ 4. This act shall take effect in 60 days. <—