

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1885 Session of  
2015

---

INTRODUCED BY WHITE, METCALFE, KNOWLES, READSHAW, D. COSTA,  
BLOOM, IRVIN, GREINER, TOEPEL, TOPPER, MILLARD, BARRAR,  
SANKEY, STAATS, TAYLOR, KAUFFMAN, DIAMOND, METZGAR, WARNER,  
ZIMMERMAN, GROVE, SAYLOR, SANTORA, GILLEN, MOUL, SACCONI,  
RADER, ROTHMAN, EVERETT, EMRICK, GABLER, GINGRICH, PYLE,  
CUTLER AND KLUNK, APRIL 5, 2016

---

REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 5, 2016

---

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, providing  
4 for exceptions to governmental immunity related to  
5 unauthorized aliens; and, in preemptions, providing for  
6 restriction on municipal regulation of official and employee  
7 communications relating to immigration status.

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

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

12 § 8543. Exceptions to governmental immunity related to  
13 unauthorized aliens.

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

18 (1) Federal immigration officials have determined that

1 the person who engaged in the criminal activity is an  
2 unauthorized alien.

3 (2) The unauthorized alien is a resident of the  
4 sanctuary municipality.

5 (3) The unauthorized alien is convicted of the crime  
6 that caused the injury.

7 (4) The criminal activity is a proximate cause of the  
8 injury.

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

12 "Municipality." A municipality as defined under 1 Pa.C.S. §  
13 1991 (relating to definitions).

14 "Sanctuary municipality." Any municipality that prohibits or  
15 in any way restricts an official or employee of the municipality  
16 from:

17 (1) sending to or receiving from Federal immigration  
18 officials information regarding the citizenship or  
19 immigration status, lawful or unlawful, of an individual;

20 (2) doing any of the following with respect to  
21 information regarding the immigration status, lawful or  
22 unlawful, of an individual:

23 (i) sending the information to or requesting the  
24 information from Federal immigration officials;

25 (ii) maintaining the information; or

26 (iii) exchanging the information with other Federal  
27 agencies, State agencies or municipalities;

28 (3) inquiring about an individual's name, date and place  
29 of birth and immigration status while enforcing or conducting  
30 an official investigation into a violation of any law of this

1 Commonwealth; or

2 (4) requesting an applicant who applies for a State or  
3 local public benefit as defined by section 411(c) of the  
4 Personal Responsibility and Work Opportunity Reconciliation  
5 Act of 1996 (Public Law 104-193, 8 U.S.C. § 1621(c)) to  
6 provide proof of eligibility to receive the State or local  
7 public benefit.

8 "Unauthorized alien." An alien who is not lawfully present  
9 within the United States as determined by Federal immigration  
10 officials.

11 Section 2. Title 53 is amended by adding a section to read:  
12 § 305. Restriction on municipal regulation of official and  
13 employee communications relating to immigration  
14 status.

15 (a) General rule.--The governing body of a municipality may  
16 not adopt an ordinance, regulation or plan or take any other  
17 action that limits or prohibits a public official, employee or  
18 law enforcement officer of the municipality from communicating  
19 or cooperating with an appropriate public official, employee or  
20 law enforcement officer of the Federal government concerning the  
21 immigration status of an individual in this Commonwealth.

22 (b) Notice to public officials, employees and law  
23 enforcement officers.--The governing body of a municipality  
24 shall provide written notice to each public official, employee  
25 and law enforcement officer of the municipality of his duty to  
26 communicate and cooperate with an appropriate public official,  
27 employee or law enforcement officer of the Federal government  
28 concerning enforcement of any Federal or State immigration law.

29 (c) Compliance report to Commonwealth.--

30 (1) Within 90 days of the effective date of this

1 section, the governing body of a municipality shall submit a  
2 written report to the Department of Community and Economic  
3 Development that the municipality is in compliance with the  
4 requirements of subsection (a).

5 (2) If the department fails to receive a timely report  
6 from a municipality under this subsection, the department  
7 shall provide the name of the municipality to the State  
8 Treasurer.

9 (d) Duty of law enforcement officers.--A law enforcement  
10 officer of a municipality who has reasonable cause to believe  
11 that an individual under arrest is not legally present in the  
12 United States shall immediately report the individual to the  
13 appropriate United States Immigration and Customs Enforcement  
14 Office within the Department of Homeland Security.

15 (e) Annual report to Commonwealth.--

16 (1) On or before March 1 of each year, the governing  
17 body of a municipality shall report to the Department of  
18 Community and Economic Development the number of reports made  
19 by law enforcement officers of the municipality under  
20 subsection (d).

21 (2) If the department fails to receive a timely report  
22 from a municipality under this subsection, the department  
23 shall provide the name of the municipality to the State  
24 Treasurer.

25 (3) On or before April 1 of each year, the department  
26 shall compile the reports received under this subsection and  
27 submit a cumulative report thereof to the General Assembly.

28 (f) Penalty for noncompliance.--Notwithstanding any other  
29 provision of law to the contrary, the State Treasurer shall  
30 withhold the payment of Commonwealth funds to any municipality

1 whose name is reported by the department to the State Treasurer  
2 under this section until such time as the municipality complies  
3 with this section and the department so notifies the State  
4 Treasurer.

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