

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 653 Session of
1995

INTRODUCED BY FISHER AND WAGNER, MARCH 2, 1995

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 20, 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 8301(a) of Title 42 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 8301. Death action.

10 (a) General rule.--An action may be brought, under
11 procedures prescribed by general rules, to recover damages for
12 the death of an individual caused by the wrongful act or neglect
13 or unlawful violence or negligence of another if no [action for
14 damages was brought by the injured individual during his
15 lifetime.] recovery for the same damages claimed in the wrongful
16 death action was obtained by the injured individual during his
17 lifetime and any prior actions for the same injuries are

1 consolidated with the wrongful death claim so as to avoid a
2 duplicate recovery.

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 ~~in flight or fleeing apprehension, or resisting arrest by a~~
17 ~~police officer or knowingly aided a group one or more of~~
18 ~~whose members were in flight or fleeing apprehension, or~~
19 ~~resisting arrest by a police officer. As used in this~~
20 ~~paragraph, "motor vehicle" means any vehicle which is self-~~
21 ~~propelled and any attachment thereto, including vehicles~~
22 ~~operated by rail, through water or in the air.~~

23 * * *

24 ~~(d) Evidence. Whenever any plaintiff claims liability under~~
25 ~~subsection (b)(1), evidence is admissible to demonstrate that~~
26 ~~the plaintiff, at any time during the course of the alleged~~
27 ~~negligence, was engaged or participating in willful misconduct,~~
28 ~~including, but not limited to, the illegal possession of~~
29 ~~controlled substances, firearms or ammunition.~~

30 Section 3 2. This act shall apply to a cause of action that <—

1 accrues on or after the effective date of this act.

2 Section 4 3. This act shall take effect in 60 days.

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