

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 853 Session of
2009

INTRODUCED BY ORIE, RAFFERTY, ALLOWAY, WARD, ERICKSON, WAUGH,
FOLMER, BAKER, KASUNIC, PIPPY, VOGEL, BROWNE, EARLL,
D. WHITE, WOZNIAK AND SCARNATI, MAY 11, 2009

REFERRED TO JUDICIARY, MAY 11, 2009

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for definitions; and
3 providing for mandatory determination and reporting of
4 citizenship and immigration status.

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

7 Section 1. The definition of "criminal history record
8 information" in section 9102 of Title 18 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 9102. Definitions.

11 The following words and phrases when used in this chapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 * * *

15 "Criminal history record information." Information collected
16 by criminal justice agencies concerning individuals, and arising
17 from the initiation of a criminal proceeding, consisting of
18 identifiable descriptions, dates and notations of arrests,

1 indictments, citizenship and immigration status under section
2 9112.1 (relating to mandatory determination of citizenship and
3 immigration status of certain arrestees), informations or other
4 formal criminal charges and any dispositions arising therefrom.
5 The term does not include intelligence information,
6 investigative information or treatment information, including
7 medical and psychological information, or information and
8 records specified in section 9104 (relating to scope).

9 * * *

10 Section 2. Title 18 is amended by adding a section to read:

11 § 9112.1. Mandatory determination of citizenship and
12 immigration status of certain arrestees.

13 (a) Inquiry.--An arresting authority shall inquire into the
14 citizenship and immigration status of any person arrested for a
15 felony or any offense involving violence or a minor.

16 Verification of immigration status shall be done without regard
17 to the person's national origin, ethnicity or race. If the
18 person cannot demonstrate that he or she is a citizen or is
19 legally in the United States, the arresting authority shall
20 verify with the Federal Government, under section 642(c) of the
21 Illegal Immigration Reform and Immigrant Responsibility Act of
22 1996 (Division C of the act of September 30, 1996 Public Law
23 104-208, 110 Stat. 3009-707), the person's citizenship or
24 immigration status. The following information shall be forwarded
25 to, in a manner and form as provided by, the central repository:

26 (1) the determination of citizenship or immigration
27 status; or

28 (2) the inability to determine citizenship or
29 immigration status in cases where the determination would
30 significantly expand the duration of the detention.

1 (b) Cooperation with Federal immigration authorities.--An
2 arresting authority shall fully comply with and, to the full
3 extent permitted by law, support the enforcement of Federal law
4 prohibiting the entry into, presence or residence in the United
5 States of persons in violation of Federal law. If the person is
6 verified to be unlawfully present in the United States under
7 subsection (a), the arresting authority shall cooperate with any
8 request by Federal immigration authorities to detain the person
9 or transfer the person to the custody of the Federal Government.

10 (c) Authorization.--Under section 642 of the Illegal
11 Immigration Reform and Immigrant Responsibility Act of 1996 and
12 section 434 of the Personal Responsibility and Work Opportunity
13 Reconciliation Act of 1996 (Public Law 104-193, 110 Stat. 2105),
14 no arresting authority agencies may be prohibited or in any way
15 restricted from sending, receiving or maintaining information
16 regarding the immigration status, lawful or unlawful, of any
17 individual or exchanging the information with any other Federal,
18 State or local government entity. No city, county or State law
19 enforcement agency may by ordinance, official policy or informal
20 policy prevent its officers from asking individuals their
21 citizenship or immigration status.

22 (d) Uniform crime reporting.--Statistical information
23 concerning citizenship and immigration status under this section
24 shall be included in the Pennsylvania Uniform Crime Reporting
25 Program and published in any annual report under the act of
26 November 29, 2004 (P.L.1383, No.180), known as the Uniform Crime
27 Reporting Act.

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